

INFORMATIONAL HEARING AND SITE VISIT
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for)
Certification for the) Docket No. 02-AFC-1
BLYTHE II ENERGY PROJECT)
(Blythe Energy, LLC))
_____)

BLYTHE CITY HALL
COUNCIL CHAMBERS
235 N. BROADWAY
BLYTHE, CALIFORNIA

THURSDAY, JANUARY 22, 2004

1:09 P.M.

Reported by:
Martha L. Nelson
Contract No. 170-01-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

William Keese, Presiding Member

HEARING OFFICER, ADVISORS PRESENT

Garrett Shean

Rich Buckingham

STAFF AND CONSULTANTS PRESENT

Lisa De Carlo, Staff Counsel

William Pfanner, Project Manager

Alvin McCuen, Senior Lead
Transmission System Engineering

Eileen Allen,
Land Use and Transportation

Robert Mooney,
Desert Southwest Transmission Project

Richard Sapudar,
Water and Soil Resources

John Kessler, P.E
Kessler and Associates, LLC

STAFF AND CONSULTANTS PRESENT TELEPHONICALLY

Natasha Nelson

Alvin J. Greenberg, Ph.D.

Linda Bond, Consultant

REPRESENTING THE APPLICANT

Scott A. Galati, Attorney
Galati and Blek, LLP

Thomas L. Cameron, Project Manager

Robert Looper, P.E., Project Director
Caithness Blythe II, LLC

Robert K. Holt, P.E.
The Holt Group

Christopher Ellison, Attorney
Ellison, Schneider and Harris, LLP

Tim O Laughlin

ALSO PRESENT

Les Nelson, City Manager

Charles Hull, Assistant City Manager
City of Blythe

Camela Garnica, an Intervener

Quenton Hanson, Palo Verde Community College

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P R O C E E D I N G S

1:09 p.m.

PRESIDING MEMBER KEESE: Good afternoon everyone. Bill Keese, Chairman -- Commission and presiding over this citing case. Pleased to be back here in Blythe. At least to have a nice cool day versus some of the hot summer days we ve had with out previous cases. And it s actually a pleasure to tell the City of Blythe and all its officialdom that this is one of the nicest settings we get for our citing cases, so we really, we really do appreciate the efforts of the city, and thank you for you for setting this up so nicely.

This is a workshop. We re not into the hearing stage yet. The purpose of this workshop is to try to get us to the hearing stage which we re anxious to get to so we can resolve the final issues in this.

Rick Buckingham on my left is my advisor who will be assisting in this case. Garret Shean is on my right, and Mr. Shean is our Hearing Officer and will be presiding over this case. With that brief, welcome, I introduce Mr. Shean.

HEARING OFFICER SHEAN: Thank you,

1 Commissioner. As we begin let me indicate, number
2 one, we d like everyone either to turn off your
3 pager or cell phone, or make sure that if it s in
4 a situation if you do, if you do get a ring or
5 something and need to leave do that please.

6 For the members of the public who are
7 here, welcome. We re going to -- it s hard to
8 estimate how long this hearing is going to take.
9 But I want to assure you that before we end we re
10 going to have a public comment period for you to
11 speak. And our representative from our Public
12 Advisor s Office, Mike Monasmith is in the back.
13 If you have filled out a little blue card and wish
14 to speak he will give it to us and we ll afford
15 you that opportunity. There s also a mailing list
16 and sign-up sheet at the back. If you want to be
17 put on the mailing list for future notices and
18 other information with respect to this proceeding
19 if you ll put your name on that list that is how
20 you will get it.

21 I d like at this point to have the
22 parties introduce themselves. We ll begin with
23 the applicant and then the staff. And if there s
24 anyone else in the audience who would like to
25 introduce themselves, if they ll come to the

1 microphone and indicate for our reporter -- let me
2 just -- I guess I should further indicate, all of
3 the proceedings that the Committee conducts are
4 reported and we will prepare a transcript
5 following the meeting. And so we are going to
6 need you, as you speak, to identify yourself and
7 any affiliation, either with a governmental
8 organization or a group. So with that we ll go --

9 PRESIDING MEMBER KEESE: And I think
10 there s some people on the telephone, too.

11 HEARING OFFICER SHEAN: And I, I guess I
12 can also indicate that there are some staff
13 members who are on the telephone who are basically
14 monitoring what we re doing here today. And if it
15 should be necessary they will chime in and give
16 some information with respect to their particular
17 area of expertise. In the interest of economy we
18 have not brought down the usual retinue of
19 Commission people, but we have the essential
20 people here.

21 So with that we ll now go to Mr. Galati.

22 MR. GALATI: Good afternoon. My name is
23 Scott Galati on behalf of the applicant Caithness
24 Blythe II.

25 MR. LOOPER: My name is Bob Looper with

1 Caithness Blythe II. And there may be some
2 members of our team that may introduce themselves
3 if you have a particular area that you are here
4 representing today as well you will let us, let us
5 know what that is so.

6 MR. CAMERON: I m with -- Tom Cameron.
7 I m with Caithness Blythe II.

8 HEARING OFFICER SHEAN: Mr. Cameron, I
9 don t believe she can hear you. I mean, she can
10 hear you but the microphone can t hear you.

11 MR. CAMERON: Tom Cameron with Caithness
12 Blythe II. I m here to support any technical
13 questions that come up.

14 HEARING OFFICER SHEAN: Thank you.

15 MR. ELLISON: Chris Ellison, Ellison,
16 Schneider and Harris here to represent Caithness,
17 Caithness Blythe II on the transmission issue.

18 MR. O LAUGHLIN: Tim O Laughlin of
19 O Laughlin Harris LLP here to support the
20 applicant in regards to the water issues.

21 MR. HOLT: Rob Holt with The Holt Group
22 here to support Caithness on the civil engineering
23 related issues.

24 MR. HULL: Charles Hull with the City of
25 Blythe.

1 HEARING OFFICER SHEAN: All right.
2 Let s go to Commission staff then. And I m going
3 to ask you to introduce the people who are here
4 and have them stand, so it might save us a little
5 bit.

6 MS. DE CARLO: Thank you. Lisa De
7 Carlo, Staff Counsel.

8 MR. PFANNER: Yes, William Pfanner,
9 Project Manager. And I would like to introduce
10 the staff members that we have present.
11 Representing Transmission System Engineering we
12 have Mr. Al McCuen. For Land Use and
13 Transportation, Eileen Allen. For Water and Soil
14 we have Rich Sapudar and John Kessler, and they
15 are here in attendance and will be called on as
16 necessary. We do have the other staff members
17 listening in in Sacramento, and if necessary we ll
18 announce them at that time.

19 HEARING OFFICER SHEAN: All right. Are
20 there any representatives from local governmental
21 agencies who would like to introduce themselves
22 now?

23 MR. NELSON: Les Nelson, City Manager of
24 Blythe.

25 HEARING OFFICER SHEAN: All right. For

1 the benefit of our audience who, who don't know,
2 the reason we are conducting these proceedings
3 today is that as part of the normal Commission
4 process the applicant files its application for
5 certification which contains a significant amount
6 of information. The staff then takes that
7 information, determines what additional
8 information it needs, files data requests with the
9 applicant, this is a form of administrative
10 discovery. The applicant generally responds to
11 those, either to the best of their ability, or if
12 they believe there's a question of relevance of
13 some other legal challenge to the request they can
14 file an objection.

15 What has happened now is the staff has,
16 from the information it has gathered, prepared a
17 preliminary staff assessment which has certain
18 areas of the analysis that indicate that there is
19 additional information which is needed before it
20 can produce the next document in phase in, in
21 sequence which is the final staff assessment,
22 which as the Chairman noted is the staff's
23 document that is used in our ultimate hearings
24 where we decide or at least formulate the record
25 upon which we are going to decide the disposition

1 of the application for certification.

2 So what we are here to cover today are
3 those items that were listed in the PSA, the
4 Preliminary Staff Assessment, that the staff has
5 indicated that it feels it needs before it can
6 produce a final staff assessment. The applicant
7 has filed papers indicating that it believes that
8 some of the requests that staff has made are not
9 appropriate and are -- and is challenging those.
10 And what we re here today to do essentially is the
11 following: determine, first of all, whether or
12 not, since we all acknowledge that there is a
13 Blythe I project that is on the ground, whether or
14 not any of the substantive areas that were covered
15 in Blythe I which are -- the staff has requested
16 information either about or similar to for, for
17 the Blythe II project, whether or not the Blythe I
18 project information and the Commissions license
19 for that apply; second would be if there is
20 information that is independent of that analysis
21 that would apply only to Blythe II whether or not
22 there is information that the applicant will need
23 to provide, and we will attempt to determine that
24 after we hear everything and return to Sacramento
25 and deliberate on that; and the last thing would

1 be if we do determine that there s information
2 that is to be provided by the applicant when will
3 it be provided so that we can establish a schedule
4 for it to be sent to the staff and then for the
5 staff to analyze it and then produce it s FSA. So
6 to make a short story long that is what this is
7 all about here today.

8 What we have done is in the notice for
9 today s hearing produce an Appendix A, which is a
10 list of the areas that the applicant and the staff
11 are at least in some level of contest about, and
12 we re going to go through them essentially
13 alphabetically to determine what s the disposition
14 of each of these areas and whether there s more
15 information requested.

16 So with that, did you want to take
17 things out of order on this transmission?

18 MR. PFANNER: Well, I was going to go in
19 the order that we had.

20 HEARING OFFICER SHEAN: Okay.

21 MR. PFANNER: And I ll do a brief
22 introduction --

23 HEARING OFFICER SHEAN: Sure.

24 MR. PFANNER: -- if that s all right
25 with you? Briefly -- yes?

1 UNIDENTIFIED SPEAKER: Would it be
2 appropriate if we asked the individuals on the
3 phone to maybe get back a little bit. The, the
4 noise you hear is really them breathing into the,
5 the phone system. And at least out here in the
6 audience --

7 HEARING OFFICER SHEAN: Okay.

8 UNIDENTIFIED SPEAKER: -- it s a little
9 distracting.

10 HEARING OFFICER SHEAN: Sure. If we
11 could have the heavy breathers from the staff --

12 MR. PFANNER: Just back up a little.

13 HEARING OFFICER SHEAN: -- and you know
14 who you are. Yeah. Back off a little bit.

15 MR. PFANNER: It s too early to be
16 snoring so --

17 HEARING OFFICER SHEAN: Okay.

18 MR. PFANNER: Okay.

19 HEARING OFFICER SHEAN: With that we ll
20 go ahead, Mr. Pfanner.

21 MR. PFANNER: Briefly, thank you very
22 much. The Preliminary Staff Assessment was
23 published on November 14th. And the place we are
24 right now is there were some areas that were
25 identified that staff felt additional information

1 was necessary to proceed to the FSA. And briefly,
2 that was air quality, biology, cultural resources,
3 land use, socio-economics, traffic and
4 transportation, transmission system engineering,
5 worker s safety, fire protection, soil and water
6 resources.

7 Now since then the applicant has
8 prepared a status report to the hearing office
9 that we have seen, and we have come to some
10 agreements with them that there are areas where we
11 can come to some, some quick solutions. There are
12 other areas where we re still open for delay --
13 for debate. It is out intent to clear as many
14 issues as possible before we go into the PSA
15 workshop so that we can decide what we are in
16 agreement with. And certainly before we get into
17 the evidentiary hearings we want to resolve as
18 any -- many issues as possible.

19 So today I think there are a number of
20 the issues that we can go through following the
21 format that the, the staff prepared of the thirty-
22 five-ish issues through those topics, and we can
23 respond to what we received from the applicant and
24 give them an opportunity to respond also --

25 HEARING OFFICER SHEAN: All right.

1 MR. PFANNER: -- if that s okay with
2 you.

3 HEARING OFFICER SHEAN: That s --

4 MR. PFANNER: Okay.

5 HEARING OFFICER SHEAN: -- the way we
6 had intended to do it.

7 MR. PFANNER: Okay. Well, the first
8 topic is air quality, and the staff had identified
9 under the topic of the Final Determination of
10 Compliance, the FDOC, that that was required to be
11 submitted by the Mojave District Air Quality
12 Management District. And the applicant agrees
13 with staff that the FDOC is a critical path item,
14 and they are in agreement to obtaining this. And
15 staff would only like to know, is there an
16 anticipated date for when this would be submitted
17 to this so that we can include it in the FSA?

18 MR. GALATI: That s a correct
19 characterization of applicant s position. And we
20 have been told and anticipate the end of February
21 the Final Determination of Compliance will be
22 issued.

23 MR. PFANNER: Thank you. The second
24 issue that air quality identified was in regards
25 to Wind Erosion Control Plan associated with the

1 Water Conservation Offset Program, which we call
2 the WCOP. And the staff had asked to have it
3 reviewed by the Federal Natural Resources
4 Conservation Service, and the applicant has
5 questioned the need for that. And our staff does
6 acknowledge that the wind erosion information is
7 not a Federal requirement under LORS. They would
8 like to have this information under CEQA and they
9 feel that depending on the outcome of what is
10 discussed in the water section of whether or not
11 there s going to be additional information
12 provided. Staff can work with whatever the
13 conclusion is. If there is not going to be any
14 further information provided staff can prepare an
15 analysis. It would take them more time to do the
16 analysis themselves. They would again like to see
17 whatever is proposed to be reviewed by the NRCS as
18 a final wind analysis before we do our FSA. But
19 staff does not think that this is a critical path
20 item that would delay the FSA.

21 MR. GALATI: I think we can wait til
22 the water resources hearing to, to basically --

23 HEARING OFFICER SHEAN: Okay.

24 MR. GALATI: -- I think see what is
25 driving this. But what I can say is that the

1 applicant was not intending to submit a wind, wind
2 erosion plan. If, if staff does believe that it
3 needs a wind erosion plan and wants to propose one
4 in the FSA we can certainly entertain that. But
5 our, our position is that, that again it is not
6 critical path. That staff believes it s not
7 critical path for the FSA. I think we can remove
8 this for discussion in this hearing.

9 MR. PFANNER: Agreed.

10 HEARING OFFICER SHEAN: Okay.

11 MR. LOOPER: I d like to add one other
12 thing on, on that though. If, if it is determined
13 that, that at some point in time that there is
14 going to be some analysis done then one of the,
15 one of the issues that I think that should be
16 brought out is that the NRCS is not the entity
17 that, that -- there are no orders on this issue.
18 For some reason staff has cited the NRCS. The
19 local laws and ordinances here are between the
20 city, the county and PVID. They have the
21 expertise as well as the plans in place for that.
22 Those are the agencies that should be consulted in
23 that. That is what the applicants has done. We
24 do not understand the, the NRCS basis. So since
25 there are no lawyers here on that issue we would

1 suggest that we deal with the local folks, deal
2 with the land issues here and, and have dealt with
3 these everyday for the last -- their lifetimes.

4 HEARING OFFICER SHEAN: All right.

5 MR. PFANNER: Okay. That concludes our
6 issues regarding air quality. The next topic is
7 biological resources. And the biological staff
8 identified that a biological assessment with full
9 mitigation must be accepted as complete by the
10 U.S. Fish and Wildlife Service. And the applicant
11 has stated that they agree that U.S. Fish and
12 Wildlife Services consultation needs to be
13 accepted as complete before the FSA is released.
14 And staff would like to know from the applicant if
15 we know the date when this will be completed.

16 MR. GALATI: We anticipate this being
17 completed in March. But if I could give the
18 Committee some idea of what we re talking about
19 here because I think that it is, it is different
20 then you may find with other projects.

21 Blythe I received a biological
22 assessment. It did a biological assessment and a
23 biological opinion for the seventy-six acres that
24 involved Blythe I which were, which were licensed
25 by the Commission in March 2001.

1 The applicant for Blythe I came in and
2 requested a modification to that license to
3 include additional acreage right next to Blythe I.
4 That -- we've been calling that petition for
5 Amendment 1B. That was granted. The purpose of
6 that amendment was to provide an ability to clear
7 that entire property, fence that entire property
8 and place the excess fill material from building a
9 Blythe I retention -- excuse me, evaporation ponds
10 and retention basin on the Blythe -- on that
11 adjacent property, the Amendment 1B property.

12 What's important to understand is Blythe
13 II is entirely within that previously disturbed --
14 area which is -- was approved by Amendment 1B. We
15 see this as a project entirely within the fence
16 line of a previously disturbed area.

17 The biological opinion and/or
18 information that we believe we are going to get,
19 and the U.S. Fish and Wildlife Service has been
20 supportive in this, is that if there are no
21 outside the fence line additional work there
22 shouldn't be a need for a separate biological
23 opinion for Blythe II since it took -- taking
24 place within the footprint of what was approved
25 for Blythe I.

1 What has -- we agree that we do need to
2 provide that information. We can certainly talk
3 about this in the land use area because what we
4 are waiting for and what we re -- is confirmation
5 from the City that there would be the, the work
6 that, that would be done for Blythe II is going to
7 be inside the fence line. Once that confirmation
8 is received then we can talk about that in land
9 use that we believe we can bring that confirmation
10 to the U.S. Fish and Wildlife Services in a very
11 short period of time, get the concurrence letter
12 that no additional biological opinion is
13 necessary.

14 HEARING OFFICER SHEAN: All right.

15 MR. PFANNER: Okay. I think that the
16 second biological question does kind of relate to
17 this, and that is a mitigation monitoring plan for
18 burrowing owls must be proposed that is acceptable
19 to California Department of Fish and Game. And
20 the applicant has proposed that there are no --
21 there s no longer any habitat for burrowing owl.
22 Staff will be asking in the PSA workshops that
23 they have a biologist submit a report to the CEC
24 as an amendment to the AFC to support their
25 contention.

1 Staff believes that there is over a
2 third of the cite where no grading has occurred
3 and where ground squirrels may exist, so we want
4 to get this clarified once and for all. Is there
5 any land that has not been graded and is that part
6 of the project? Otherwise, they ll be required as
7 a condition of certification to perform the
8 protocol level survey for burrowing owls prior to
9 the start of construction. And this could delay
10 the start of construction since both winter and
11 spring surveys are required before an absence can
12 be confirmed.

13 So I guess the, the critical factor that
14 staff wants to say is that a winter and spring
15 survey for burrowing owls could be set up now if
16 they re necessary and save a lot of problems later
17 if indeed they re going to be required.

18 MR. LOOPER: Since we ve touched on a
19 couple of issues that relate to the site --

20 HEARING OFFICER SHEAN: Can you --
21 you re going to have to be near a microphone.

22 MR. LOOPER: Oh, okay.

23 HEARING OFFICER SHEAN: Near two
24 microphones.

25 MR. LOOPER: Since we, since we touched

1 on a couple of issues that touch the site I have
2 up here, and you folks are welcome to take a look
3 and there s others, just a photo of the site. And
4 I thought it would be important for the --
5 everybody to see what we re talking about since --
6 I mean, this has been done. This isn t something
7 that we can speculate about, we can take a look at
8 it.

9 And so what I ve got here is really an
10 oblique aerial that was taken of this site not
11 that long ago, I don t know, Rob, probably a month
12 ago or so, the date on there.

13 MR. HOLT: August 19th.

14 MR. LOOPER: Oh, yeah. And, and it
15 shows the Blythe II in the foreground. I m going
16 to put this microphone down in a minute. It shows
17 Blythe II in the foreground of this site. It
18 shows the area that s fenced and disturbed. And
19 it shows basically that they entire fenced Blythe
20 II site as described has been disturbed and grated
21 and fenced and, and is completely encased. So
22 that s what I m going to show all the folks so
23 that we can kind of put this issue to bed.

24 PRESIDING MEMBER KEESE: I think you
25 have to show staff to convince them that it s --

1 MR. LOOPER: Right. Well, this, this
2 bill, and for you folks that haven't been out
3 there, this of course is the site, you know, that
4 we have this with the ten acre lay down area, and
5 this was the, the ten -- the, the area that we
6 fenced off from a cultural resources standpoint.
7 You guys can go out and take a look at it. I
8 think most folks know. For the Commission it is
9 basically not here. This is the Blythe II site as
10 it exists, okay, it's completely fenced --

11 MS. NELSON: This is Natasha Nelson from
12 the Energy Commission.

13 HEARING OFFICER SHEAN: Go ahead,
14 Natasha.

15 MS. NELSON: We haven't had a biologist
16 on that site since September 18th, 2001, that's
17 over two years. And burrowing owls are known to
18 liking disturbed areas. In fact in the Saltan Sea
19 Unit Six case they had over thirty owls per mile
20 in irrigation ditches. But the real problem is
21 just that we don't have any updated information
22 from a biologist that walked the site to tell us
23 whether this bird, which likes disturbed flat
24 areas, has come back in. And it's always been
25 noted that it's possible for these birds to come

1 back in to the site.

2 HEARING OFFICER SHEAN: Okay. For the
3 Committee s benefit let s just go over these two
4 biology issues.

5 First was this biological assessment.
6 If I understand the applicant correctly they re
7 indicating that they fundamentally want to rely on
8 the biological assessment and the, and the BO that
9 was provided for Blythe I, which by amendment has
10 been extended into the area which is now fenced
11 and which would be the Blythe II site. What more
12 does staff think it needs with respect to the
13 biological opinion or a biological assessment than
14 I guess the Feds indicating this is what they ve
15 done and this is sufficient for them?

16 MS. NELSON: Well, the U.S. Fish and
17 Wildlife Service gave Western two letters. The
18 first was dated August 6th, 2002 and the second is
19 dated October 17th, 2002.

20 And they list in the first letter,
21 August 6th, two questions that they need answered
22 in order to provide a biological opinion. They
23 need to know what will be the final deposition of
24 the fill dirt removed during the construction of
25 the structure relating to Blythe II. This is

1 because Blythe I obviously did not account for the
2 correct amount of cut and fill so that there would
3 be no offsite removal of dirt.

4 The second question was will the current
5 power distribution facilities be sufficient to
6 handle the actual load giving the BEP I will be
7 connecting to this grid in the future, or will a
8 new upgraded distribution facility be needed?

9 The three questions that need to be
10 answered from the October 17th letter are one,
11 traffic issues. Provide information regarding the
12 extent of traffic entry in the site driven
13 Riverside Road gate. Also what s being
14 anticipated -- the anticipated traffic volume for
15 this road after construction is completed.
16 Riverside Road is the road to the north which is
17 directly adjacent to undisturbed habitat where the
18 highest concern for Desert Tortoise is.

19 Second question was would there be any
20 disturbance outside of the fenced areas? For
21 instance, A, the widening of Riverside Road; B,
22 the establishment of a drainage structure along
23 the northern side of Riverside Road; C, the
24 establishment of landscaping around the perimeter
25 of the proposed project.

1 And then their last question is again
2 provide information on the power output and
3 discussion of the target area where the power
4 would be utilized. This is sort of the typical
5 question that U.S. Fish and Wildlife worries about
6 in terms of promoting growth because of this power
7 being put onto the grid.

8 So, but those are the five questions
9 staff also has and why we re asking for a second
10 review by your Fish and Wildlife Service.

11 MR. GALATI: We re well, well aware of
12 those letters, and we met with U.S. Fish and
13 Wildlife Service twice, once after each letter.
14 And we had boiled the issues down to Fish and
15 Wildlife Services to provide confirmation that the
16 City s not going to require outside the fence line
17 work. So we believe that once that confirmation
18 is provided and I can talk about it in land use,
19 it s in a PRC process with the City right now,
20 once that is provided then we believe we ve
21 satisfied U.S. Fish and Wildlife Service s
22 concerns.

23 So with respect to the burrowing owl
24 plan, I think there is some question as to
25 whether -- is this being driven by burrowing owl,

1 is, is it a listed species or is it -- and I guess
2 that s a question for Natasha.

3 MS. NELSON: I only heard half the
4 question. I heard some silence and knocking.

5 MR. GALATI: Is it -- is this being
6 driven by burrowing owl being -- as a, as a listed
7 species?

8 MS. NELSON: No. This is still relating
9 to the guidelines that were published by the
10 Department of Fish and Game. And in order to
11 establish absence, if we want to say that the owls
12 are absent, we need both a winter and spring
13 survey. Otherwise, as you noted in your AFC, you
14 have to keep a two hundred and fifty foot buffer
15 around an occupied nest.

16 MR. GALATI: The, the other thing I d
17 like to, like to point out is the entire hundred
18 and fifty-two acres, even though as, as was noted
19 by staff and shown by Mr. Looper on the, on the
20 air photo, a significant portion of the Blythe II
21 site is not going to be developed and is fenced
22 for cultural resources protection and avoidance.

23 The other entire hundred and fifty-two
24 acres was, was mitigated for by placing funds and
25 purchase of the mitigation bank for desert

1 tortoise and, and several other species. Would
2 that provide any benefit to the burrowing owl? I
3 mean, our contention would be that it would.

4 MR. LOOPER: I guess I don't understand.
5 The applicant does not understand then, after
6 listening to U.S. Fish and Wildlife Service which
7 were available with those letters where, where the
8 burrowing owl comes from. It comes from
9 guidelines but there's no -- there's nothing in
10 the letters or our conversation with Christopher
11 Hayes of the U.S. Fish and Wildlife Service which
12 lead us to believe that they're looking for
13 something additional on the burrowing owl. The
14 sites been fully graded, it's been fully fenced.
15 There's no -- it was fully cleared, by the way.
16 There was clearance biologists required before it
17 was under, under the CEC Compliance Office, it was
18 fully cleared for cultural and biological issues
19 before even work was done. And that was done
20 fairly recently. That was done when we ran into
21 some excess materials issue. So I'm not under,
22 certain where this is coming from the burrowing
23 owl, unless it's coming from staff. It's
24 certainly not coming from U.S. Fish and Wildlife
25 Service asking us to do something. There may be

1 guidelines out there, but in our conversation with
2 the U.S. Fish and Wildlife Service all they re
3 looking for from us to clear outside the fence
4 line issues from the City, and at that point in
5 time they re ready to issue a biological opinion.

6 HEARING OFFICER SHEAN: Okay. But the
7 applicant does agree that Fish and Wildlife
8 Service will be providing something once you
9 provide information to them --

10 MR. LOOPER: Absolutely.

11 HEARING OFFICER SHEAN: -- from the
12 City, right?

13 MR. LOOPER: Yeah.

14 HEARING OFFICER SHEAN: And that for the
15 ultimate disposition, the biology issues, that s a
16 necessary item?

17 MR. LOOPER: Absolutely.

18 HEARING OFFICER SHEAN: Okay. And I m
19 going to ask staff again, somebody s breathing
20 pretty heavily into the telephone receiver. And
21 while that -- the effect of that is is that it s
22 being amplified in the teleconferencing equipment
23 and makes it hard for the members of the audience
24 to hear. So let me just ask again that you be
25 aware of that fact. Okay. I think we ve taken

1 care of biology then.

2 MR. PFANNER: Those were the two items
3 that we had for biology.

4 HEARING OFFICER SHEAN: All right.
5 Let s go to cultural resources then.

6 MR. PFANNER: Okay. Cultural, there
7 are, are two issues that were identified by staff.
8 The first was that the applicant complete
9 consultation with Native Americans to identify and
10 evaluate resources that could be impacted by the
11 project and address such information in the FSA.
12 And the applicant has responded and agrees that
13 this is an ongoing process. Staff agrees this is
14 not going to delay the FSA. It is an ongoing
15 process and so this issue has taken care of
16 itself.

17 The second issue that cultural resources
18 staff identified is the City of Blythe must
19 determine through their planning process whether
20 there would be ground disturbing activities
21 required outside of the project site associated
22 with any road improvements. And again, staff has
23 had the -- reviewed the applicants response and
24 staff agrees with the applicant that the City will
25 provide confirmation that no activity will occur

1 outside of the fence line. So this will not have
2 any delays with the FSA at this time.

3 HEARING OFFICER SHEAN: Is this the same
4 confirmation in cultural that would apply in
5 biology?

6 MR. GALATI: Yeah, it s the same, it s
7 the same confirmation, just what s going on
8 outside the fence line so that if there s anything
9 near a cultural resource or if there s anything
10 near a biological resource it can be evaluated.
11 So again, those were tied up to, to those issues
12 in land use.

13 HEARING OFFICER SHEAN: Okay. So
14 that s -- it s coming, the City confirmation?

15 MR. GALATI: That s correct.

16 HEARING OFFICER SHEAN: Okay. Let s go
17 on to land use then which has three items.

18 MR. PFANNER: Okay. The first issue on
19 land use is that staff requested a full
20 description of the Water Conservation Offset
21 Program, including a parcel by parcel
22 identification of farmland classifications,
23 irrigation status, permanently retired parcels,
24 and Williamson Act status land. Applicant has
25 reviewed it.

1 Staff feels that the Water Conservation
2 Offset parcel information is necessary to assess
3 the agricultural impacts of the project. And one
4 of the concerns is that the parameters that the
5 applicant has provided for the Water Conservation
6 Offset Plan identifies land that is irrigated and
7 that this would predominantly include the
8 farmlands of statewide importance and -- or that
9 their plan would not include farmlands of
10 statewide importance or land that is under
11 Williamson Act status. And we don't know that
12 there is any land that is irrigated in the area
13 that doesn't fall into those categories. So our
14 concern is maybe these parameters are creating a
15 plan that doesn't, in reality, pencil out on
16 paper.

17 So what staff is looking for is for more
18 detailed information defining how the Water
19 Conservation Offset Plan would work. Or if the
20 applicant does not wish to do that our staff has
21 identified other ways that this might be able to
22 met so that they would feel that they could fully
23 assess agricultural impacts. And that would be,
24 one, a letter from the Farmland Trust Organization
25 outlining terms of an agricultural land

1 compensation agreement for agricultural lands
2 permanently retired by the Water Conservation
3 Offset Plan, and these terms should include
4 requirements that compensate funds are to be used
5 in the Palo Verde region. And a letter stating
6 that the, the terms, i.e. the schedule, duration
7 of the agreement, types of farmland of the
8 agreement with the Palo Verde Irrigation District
9 for participation in a rotation land fallowing
10 program. Or as an alternative an explanation of
11 what classifications of farmland would be included
12 in the WCOP that would allow for the necessary
13 water savings.

14 So that if the requested parcel
15 information, or the issues we just identified
16 above, if they re not provided that staff would
17 conclude that there is a potential for significant
18 impact and that based on the information we have
19 we would prepare kind of a scenario trying to
20 assess what the farmlands would be and proceed
21 with the FSA.

22 So in summary, staff is looking for
23 detailed information so we can accurately assess
24 impacts on agricultural land or some other
25 mechanism where the applicant has insured that the

1 farmland of statewide importance and Williamson
2 Act land are not significantly impacted, or we
3 will have to assume worst case scenarios.

4 MR. GALATI: In order to fully
5 understand this I have to give a brief overview of
6 what, of what happened in Blythe I. This is an
7 issue that was addressed sufficiently in Blythe I
8 and we learned from Blythe I, and we proposed the
9 condition, the certification that was imposed on
10 Blythe I for this exact issue, we proposed that
11 same condition for Blythe II.

12 The Water Conservation Offset Plan,
13 which is voluntary in nature, and I can talk more
14 about that when we get to water resources, what it
15 allows the applicant to do is to basically engage
16 in either a permanent fallowing program or
17 rotational fallowing program.

18 The permanent fallowing program, we have
19 identified where that would take place in respect
20 and in the exact same way that we identified it in
21 Blythe I. And same thing with rotational
22 fallowing. What we have identified is that we ve
23 never said we won t affect anything that is under
24 Williamson Act. What we said is we will only
25 engage in rotational fallowing to the extent that

1 it does not violate any provision of the
2 Williamson Act contract.

3 There s some terminology that s
4 important here. There is land that is under
5 preserve under the Williamson Act, and then there
6 is land that is under contract under Williamson
7 Act. The Williamson Act contract land is the land
8 we would be targeting, and there s quite a bit of
9 it in the valley. Williamson Act preserve we said
10 we would not touch.

11 So I think there s a mis-communication
12 here. And in fact, that language is exactly from
13 Blythe I s condition and it was worked out to
14 insure that we wouldn t be inappropriately
15 fallowing land that has been set aside in
16 preserve.

17 In addition to that the applicant has
18 agreed that if for some reason it permanently
19 fallowed land that was in fact in any category
20 permanent fallowing of land there would be a
21 farmland trust compensation package set up to
22 mitigate acre per acre.

23 We don t believe that we need to
24 identify exactly what that land is. We ve, we ve
25 set forth parameters that were approved in Blythe

1 I. We've set forth parameters that are easily
2 verifiable. And those parameters we think insure
3 that there will not be any impact.

4 Lastly, we don't believe staff needs
5 this for its final staff assessment. What staff
6 just outlined, if that's its requirement, it
7 certainly can propose those as conditions that are
8 necessary to mitigate. They're not very far off
9 of what we've just described, and maybe we can
10 agree to that. But I don't believe that we need
11 to rehash this issue which was thoroughly
12 discussed in Blythe I.

13 PRESIDING MEMBER KEESE: I would ask --
14 that would -- I'd ask staff, isn't that
15 appropriate? What, what they're suggesting is
16 that, that you recommend a condition under which
17 they couldn't operate unless they did.

18 MR. PFANNER: Well, I would --

19 PRESIDING MEMBER KEESE: And, and is
20 that -- I mean, isn't that acceptable?

21 MR. PFANNER: Okay. The, the first
22 thing I would say, the difference in Blythe I is
23 that they knew the land was already out of
24 agricultural productivity, so it wasn't like there
25 was new land that was going to be taken out of

1 production.

2 What staff is asking for is to be able
3 to assess the impact of the, of the project. We
4 feel that if it is conditioned we don't know what
5 the actual outcome is going to be. And it would
6 be --

7 PRESIDING MEMBER KEESE: Except that
8 you're going to put a condition that says you need
9 so many acres of this or acres of the --
10 characterized property differently, but you're
11 going to need so many acres of this, and they
12 can't go if they don't. Isn't that, I mean, isn't
13 that bottom line?

14 MS. DE CARLO: Right now we don't feel
15 that have enough information to analyze the
16 potential impacts. And without the information to
17 analyze the potential impacts we can't feel
18 comfortable with developing a condition to apply.
19 We need to understand the potential impacts
20 prior --

21 PRESIDING MEMBER KEESE: Right. But you
22 don't -- you've identified the impact. You say it
23 must be mitigated. The, the question is is the --
24 is there adequate land out there to do the
25 mitigation you're going to ask for? You know what

1 the impact of this -- of Blythe II is.

2 MS. DE CARLO: Not the farmland. We
3 don t -- they haven t identified what particular
4 types of farmland that would be impacted.

5 PRESIDING MEMBER KEESE: I m sorry. You
6 know what the impact of the project is.

7 MR. PFANNER: Whether it s permanent or
8 rotational.

9 MS. DE CARLO: Right.

10 PRESIDING MEMBER KEESE: And you re
11 going to ask that that be offset.

12 MS. DE CARLO: Once --

13 PRESIDING MEMBER KEESE: And, and you
14 don t -- you can t define what it is that you want
15 them -- how much quantitatively you want them to
16 offset? I mean --

17 MS. DE CARLO: We don t know what
18 farmlands they will be impacting, why -- whether
19 there will be permanent impact --

20 PRESIDING MEMBER KEESE: So you --

21 MS. DE CARLO: -- rotationally fallowed.

22 PRESIDING MEMBER KEESE: So this is a
23 secondary impact. The -- Blythe II will have an
24 impact and you want it mitigated, and you now want
25 to look at what they use to mitigate and mitigate

1 that?

2 MS. DE CARLO: No. They re, they re
3 proposing as part of the project to implement this
4 WCOP. We re just trying to analyze the impacts of
5 that implementation. Their position is that that
6 WCOP isn t mitigation for anything. Now, we have
7 disagreements over that. However, they are
8 proposing this WCOP as part of the project, it s
9 in the AFC, it s proposed. Regardless of whether
10 they feel it s voluntary or not they intend to
11 implement it.

12 So we need to then analyze the impacts
13 resulting from the implementation of that plan.

14 HEARING OFFICER SHEAN: Now, did the
15 Compliance Office at the Commission in addressing
16 Blythe I find that there was the potential for any
17 impact with the program that was implemented on
18 the conditions of Blythe I?

19 MS. DE CARLO: With Blythe, with Blythe
20 I the parcels were identified prior to
21 certification. So we knew ahead of time that they
22 were going to use parcels that hadn t been farmed
23 in up to twenty years. So loss of farmland wasn t
24 an issue in that case.

25 In this case we don t know. They

1 haven't identified anything yet. We're, we're
2 dealing with an unknown factor. And so we just
3 are attempting to narrow it down, what, what is in
4 the realm of consideration for, for this WCOP,
5 what types of farmland will be affected.

6 PRESIDING MEMBER KEESE: Okay. I guess
7 the -- obviously there's going to be some evidence
8 submitted on this in the case. Are, are you
9 saying that you can't proceed to the FSA until you
10 know this?

11 MR. PFANNER: We can proceed to the FSA
12 but it is -- there's more items on the table for
13 discussion after the FSA comes out. To determine
14 whether or not is it --

15 PRESIDING MEMBER KEESE: I, I, I, I
16 would --

17 MR. PFANNER: -- is it rotational crops,
18 is it permanent. If it's permanently removed is
19 it a significant impact under CEQA? Is the
20 mitigation in place adequate? We would prefer to
21 have those informations resolved in the FSA, but
22 it would be for the PSA workshops and the
23 evidentiary hearings if we can not resolve them
24 right now.

25 HEARING OFFICER SHEAN: Okay. The

1 Chairman asked earlier though, and, and I -- to
2 me, if I understood you correctly to say you want
3 to understand the impacts of the mitigation. So
4 if the -- if this is characterized as mitigation
5 then you have project impacts that you re
6 mitigating and the mitigation itself may have an
7 impact which you then want to analyze and
8 potentially mitigate?

9 MS. DE CARLO: It s actually not
10 characterized as mitigation. It s -- the
11 applicant proposes the WCOP as a voluntary
12 program. There s the potential in the future of
13 the Bureau of Reclamation requiring this type of
14 program to offset water use. And so we re just --

15 PRESIDING MEMBER KEESE: So, so it s a
16 voluntary program and, and if they do the
17 voluntary program you want mitigation?

18 MS. DE CARLO: It s part of the project,
19 it s part of the proposed project. They re
20 classifying it as voluntary. We don t necessarily
21 believe that it is voluntary. We believe that the
22 Bureau of Reclamation has specific intentions to
23 implement this, this requirement within the next
24 couple of years. However, it s part of the
25 project. They re proposing to do this.

1 PRESIDING MEMBER KEESE: So, but if they
2 didn't do it then you wouldn't look at it and it
3 would be in a compliance phase later on, when the
4 Bureau decided to do something, or would it ever
5 come back to us?

6 MS. DE CARLO: It could potentially come
7 back as an amendment to the project.

8 PRESIDING MEMBER KEESE: Well, no.
9 If -- let's say five -- let's say two years after
10 this plan is operating, let's say they drop this
11 voluntary plan and two years after the plant is
12 operating there's a new condition put on them by
13 somebody else, do they just comply with that
14 condition, or do they need an amendment to
15 continue operating the plant? I mean, I -- it's
16 like --

17 MS. DE CARLO: It would depend on a
18 number of factors.

19 PRESIDING MEMBER KEESE: I mean, it
20 seems to me you're making the case that they
21 should drop this voluntary action which would be
22 in the public good because that would be, that
23 would be much simpler. Then it doesn't become an
24 issue here before us.

25 MS. DE CARLO: No, we're not making

1 that. We just want to understand --

2 PRESIDING MEMBER KEESE: No, it seems to
3 me --

4 MS. DE CARLO: -- what they re intending
5 to implement.

6 PRESIDING MEMBER KEESE: -- that their
7 way of complying with what you want is to say, all
8 right, we ll forget that. And then it disappears
9 from our --

10 MS. DE CARLO: But I don t believe --

11 MS. DE CARLO: Then it disappears from
12 our case.

13 MS. DE CARLO: But I don t believe that
14 would satisfy the, the Bureau of Reclamation or,
15 or --

16 PRESIDING MEMBER KEESE: Are they asking
17 for it though? But, I mean, you said they re not
18 asking for it yet.

19 MS. DE CARLO: Yeah. It s, it s
20 obviously down the pipeline. I mean, it s coming
21 up.

22 PRESIDING MEMBER KEESE: Yeah.

23 MR. LOOPER: I think we would be happy
24 to drop the Water Conservation Offset Plan. And I
25 think that would be supported by PVID, PVID, is --

1 already written to that effect and, and just
2 basically states that this water s for beneficial
3 use and it s PVID water, and therefore there is no
4 need for Water Conservation Offset Plans.

5 PRESIDING MEMBER KEESE: This --

6 MR. LOOPER: We re, we re happy to drop
7 it. It was a voluntary thing on our side to try
8 to facilitate, staff has made this a huge issue
9 for us and we ve been battling this from day one.
10 We d be happy to drop it.

11 PRESIDING MEMBER KEESE: Well, that -- I
12 mean, I don t -- you know, we haven t heard all,
13 all the evidence on it, but that s certainly the
14 way it sounds to me, like that, that you re
15 pressuring them to drop an environmental program
16 they were trying to institute voluntarily and --

17 HEARING OFFICER SHEAN: Okay. Let s go
18 on to the height variance.

19 MR. PFANNER: Okay. Staff has
20 identified that the applicant must receive from
21 the City a recommended height variance and site
22 plan application, and the applicant is in
23 agreement with staff that this must be obtained
24 from the City. We would question, is there a time
25 when we think this will be forthcoming?

1 MR. GALATI: Yeah. And I think that at,
2 at this time maybe it s a good idea to have a
3 summary from, from Butch Hull from the City.
4 Basically, let me give you a quick overview.
5 There s a couple of things that we have going with
6 the City right now. One of them is the PRC review
7 that we ve talked about. What that basically is
8 is that s the, that s the review that s going to
9 come out that, that will confirm that there are no
10 outside the fence line type of work required by
11 the City. And in addition, we ve asked the City
12 and the City has agreed to provide a, a height
13 variance, just similar to what they did on Blythe
14 I and, and basically need a height variance for
15 the, for the stacks and I believe the crystalizer
16 on the site so.

17 MR. HULL: Good afternoon. Charles Hull
18 with the City of Blythe. There are, as Mr. Galati
19 pointed out, several issues that are standing
20 between the City of Blythe and the applicant, but
21 they are not insurmountable. The learning curve
22 with Blythe I was steep, but it s plateaued.
23 Blythe II is, is in our minds pretty much a done
24 deal. The heavy lifting was done with Blythe I.

25 And if I can back up to the right of way

1 and drainage issues on Riverside Drive to the
2 north of both projects, as the Airport Manager and
3 Emergency Services Coordinator also for the City
4 we dealt with this issue as the existing right of
5 way that terminates on the airport easterly
6 property line will never have a street go into the
7 airport from that direction. We completed the
8 Airport Master Plan about two years ago and it
9 does not include on that master plan a circulation
10 element that, that terminates into Riverside
11 Drive. We stipulated in Blythe I that emergency
12 access must be gained through that, that avenue in
13 case there s a need from one direction, hazardous
14 materials release, whatever, there is alternative
15 access there that emergency services will employ,
16 the public will not.

17 As part of Blythe I the offsite drainage
18 area to the northwest encompassed somewhere around
19 one thousand to twelve hundred acres that Blythe I
20 had to mitigate. And as Blythe II is further
21 west, and if you will uphill on the intermediate
22 mesa from Blythe I, that s already been addressed.
23 Again, it s probably on the order of ninety-eight
24 percent in my mind the drainage issues on the
25 north side of Riverside Drive, which is in the

1 county, it s not inside the city limits. So that
2 lines drawn and I don t expect to go there ever
3 again. The City is not having annexation plans
4 for that, that direction, nor do we for the
5 airport. The airport is still in the county. We
6 just manage it, as I said.

7 The City s PRC, Project Review
8 Committee, is a mechanism in which we take
9 projects like Blythe Energy or Starbuck s and put
10 them through the mill. We have a number of
11 agencies that are contacted with preliminary
12 engineering or conceptual engineering drawings
13 and, and proposals. Besides all of city staff, we
14 analyze those impacts of the project and we come
15 back with the applicant, sit down and talk about
16 such things as height variances and, and how to
17 get around those. Jennifer Wellman, our Planning
18 Director, is in the, the audience and certainly
19 will give you the, the intimate detail on how
20 we re going to do that. But suffice it in my
21 presentation to say that the MOU, the Memorandum
22 of Understanding between the City of Blythe and,
23 and Blythe Energy II will have that detail in it.
24 It will be encompassed, it will be handled. It
25 will be done in process within probably the next

1 sixty days, as will a number of details, so that
2 it will not impede the permitting process that
3 you re trying to accomplish.

4 Do you want me to do ALUC?

5 HEARING OFFICER SHEAN: Sure, go ahead.

6 MR. HULL: And the --

7 HEARING OFFICER SHEAN: Since you re up.

8 MR. HULL: All right. Very briefly, we
9 know this is a contested issue. The Riverside
10 County Airport Land Use Commission took a position
11 of no position basically on Blythe I, no
12 opposition. They felt it was a local jurisdiction
13 call and we agree with that. The City Council has
14 not taken any formal position as it relates to
15 Blythe I. If pressed we will do that for -- or
16 staff will take to the City Council the
17 recommendation to overturn the negative findings
18 of the Riverside County Airport Land Use
19 Commission for Blythe II. While Blythe I was
20 neutral, Blythe II found negative. They re right
21 next to each other. And I m not quite sure what
22 the, the County s position, Airport Land Use
23 Commission, was, was supposed to be there, but we
24 live with it everyday. And it, it s not the
25 impediment that proper planning would, would lead

1 you to believe. It s, it s something we have to be
2 careful of.

3 I fly over the airport. I don t see it
4 as a problem. We have a question of airport
5 approach, safety on Runway 26 versus the cooling
6 towers of Blythe I. We need to get off the dime,
7 collectively, all of us, we need to get off the
8 dime and answer that question about is there
9 compromise in pilot safety approaching the Blythe
10 Airport over the cooling towers of Blythe I.

11 An overflight was scheduled for last
12 week. Conditions, weather conditions here in
13 Blythe weren t conducive to doing a proper test to
14 prove the model that was proposed for Blythe I.
15 And I m in a position as the Airport Manager not
16 to take anymore than just a faith finding that,
17 the computer model for I or II. I know Blythe II
18 is going to be situated somewhere on the corner of
19 downwind and base leg for approach to 26. The
20 cooling towers are on a long final for 26, which
21 is the practice ILS that the FBO, the Fixed Base
22 Operator at the airport uses for his business out
23 there.

24 Are these things eventual impediments to
25 the pilots safety in the, in the air surrounding

1 Blythe? Potentially, potentially. But we re
2 looking at it. Everybody s doing their due
3 diligence. I think because Blythe II is further
4 away that means the airplanes higher. I believe
5 that the, the model for the dissipation off both
6 the stacks and the cooling towers will probably --
7 the fudge factor wider there in, in the aircrafts
8 stability and visibility, not as much in question
9 as it is in, in Blythe I.

10 But I, I think we re not all the way
11 through the question with Blythe I. Do I have as
12 much concern with Blythe II and it, and it s
13 location? In summary, no, I don t. A pilot in
14 command has the ability to deviate. He can
15 certainly drive around the thing. And as I talked
16 to two, two different local pilots who go over
17 that thing numerous times everyday they just drive
18 around it. They re not test pilots, quote
19 unquote.

20 Number four --

21 HEARING OFFICER SHEAN: May I ask, Mr.
22 Hull, what --

23 MR. HULL: Sure.

24 HEARING OFFICER SHEAN: How do they
25 deviate from the standard approach then to the

1 quote drive around it?

2 MR. HULL: Either come up short on the
3 downwind, turn base early, and shorten the final
4 on 26. Or go around the perimeter of the plant
5 lengthening the downwind leg and, and then
6 basically just go out and around the plant.

7 HEARING OFFICER SHEAN: Does that extend
8 their base leg?

9 MR. HULL: Yes, it does.

10 HEARING OFFICER SHEAN: Okay.

11 MR. HULL: Does it compromise their
12 safety? That s a pilot s call, not mine.

13 HEARING OFFICER SHEAN: And what s the
14 length of your runway?

15 MR. HULL: Fifty-six -- or sixty-five
16 twenty.

17 HEARING OFFICER SHEAN: All right.

18 MR. HULL: As it relates to heavy hauls
19 on Hobsonway, do you want to touch that yet?

20 MR. LOOPER: Sure.

21 HEARING OFFICER SHEAN: Sure.

22 MR. HULL: As you re probably are aware
23 the, the City of Blythe has undertaken a four
24 million dollar (\$4,000,000) reconstruction project
25 for the main street in town. The, the railway

1 sidings where Blythe I equipment came off the
2 railcar and on to a, a heavy haul semi-trailer is
3 right in the middle of this project.

4 Hobsonway was designed with an H-20
5 wheel load. We didn't put concrete down, we
6 didn't feel we needed it. But we did know that we
7 have a power plant existing and another one
8 coming. And if I remember correctly the, the
9 turban weight or the, the generator weight was six
10 hundred ninety-four thousand pounds divided by a
11 hundred and some wheels, we knew that going in.
12 So we, we've designed the structure for the
13 Hobsonway Street accordingly. We knew that bet
14 when we took it.

15 And we have options for the contractor
16 as he comes through the door and says I need to
17 bring a new generator in, either for replacement
18 of Blythe I or for a new piece of equipment to
19 Blythe II, they can still use Hobsonway. The
20 truck will fit. It will be up to the contractor
21 to come to us in advance of the, the equipment
22 arriving and making sure that his, his truck will
23 turn the corner. Besides Hobsonway there's Dekema
24 which is a frontage road to the freeway, equally
25 strong in, in structural strength, more direct and

1 Commercial. Those streets that leads to it is
2 much, much wider for making that sweep. So in
3 fact the second haul to Blythe I went down Dekema.

4 It will fit through there. If it gets
5 there on a railcar it will go down Hobsonway.
6 That s probably in my mind the least attractive
7 alternative because of the jump bridges that are,
8 are necessary to get over the canals. But that s
9 not my call, it s just an alternative, and they ll
10 have to, to do the calculations to get it there.

11 That basically deals with the, the
12 issues the I had in front of me. I d be happy to
13 answer any other questions as they arise.

14 HEARING OFFICER SHEAN: Was Hobson used
15 for Blythe I?

16 MR. HULL: Yes, and I, I stood there.
17 Thank you. I was going to make that point.
18 Hobsonway was used for, for Blythe I. As that
19 equipment left the rail siding at about midnight
20 the truck driver had a very low geared vehicle.
21 He s pulling away with his foot the floor and just
22 catching gears. By the time he got to Hobsonway,
23 I don t know, eight hundred to a thousand feet
24 away, he was doing five miles an hour, but it
25 sounded like he was doing a million. He was just

1 going as fast as he could.

2 When he got to Hobsonway every axle on
3 the truck and the trailer, except the driver s on
4 the truck, turned, they articulate. He made that
5 turn going that speed, he never slowed down, he
6 just kept on going. And he went right by a, a
7 planter island that the Redevelopment Agency had
8 in the middle of the, the, the street and he just
9 took the outside lane and kept on going. By the
10 time he got by that he was doing seven and a half
11 miles an hour.

12 This thing is not impossible, you just
13 got to ask the janitor or the truck driver how
14 he s going to make it fit and they will get it
15 done. They used Hobsonway.

16 HEARING OFFICER SHEAN: Okay.

17 MR. HULL: Any other questions?

18 HEARING OFFICER SHEAN: And you re
19 reasonably satisfied that the loads are not going
20 to undo all your good work out there?

21 MR. HULL: Reasonably satisfied, yes.

22 HEARING OFFICER SHEAN: Okay. And
23 typically the Energy Commission has a condition
24 that requires the applicants to photograph the
25 roadways they use, you know, before and after type

1 situation and then re-mediate any impact to the
2 roadway.

3 MR. HULL: And, and --

4 HEARING OFFICER SHEAN: Is that
5 satisfactory to you?

6 MR. HULL: That, that is in a minimal
7 condition at this point. And, and just like, I
8 don't want to repeat it to many times, we need to
9 get through the pilot safety issue at Blythe I,
10 the cooling towers. That's not re-mediated to
11 satisfaction now, anybody's satisfaction. I, I
12 talked to the plant operator this morning and he
13 knows it's there, they're dealing with it.
14 Unfortunately we've had a heat spell of late and
15 they couldn't get the, the Caltrans aircraft to
16 overfly the, the plants. Like I said, it was
17 scheduled for last Thursday, so it's a tight
18 window for that personnel and aircraft. But
19 hopefully we'll get it done soon and not have to
20 face this question with Blythe II.

21 HEARING OFFICER SHEAN: Given that the
22 Blythe I horse is out of the barn, and it's
23 generally your opinion, or at least I heard you
24 express it, that the Blythe II is -- would be less
25 of a problem for the approaches to the airport.

1 Is this still basically a Blythe I issue or what,
2 what -- how much of an added increment on this air
3 traffic safety is, is Blythe II in your opinion?

4 MR. HULL: It s --

5 HEARING OFFICER SHEAN: I mean, is it
6 like a hundred and twenty-five percent, two
7 hundred percent or that, that kind of idea? How,
8 how should be view this, do you think?

9 MR. HULL: We will be more critical in
10 looking at location for standard approach pattern
11 for BFR traffic on, on 26 left. But I, I don t
12 see from what I know of the early drawings,
13 conceptual drawings for Blythe II, that, that
14 there s anything there to cause me any more alarm
15 than what I saw on one. Again, the pilot has the
16 ability to, to chop the throttle and cut his
17 approach short, which is the safe thing to do. If
18 the engine goes out you want to be able to make
19 it. So it wouldn t be me driving around the back
20 side of the plant. But that s entirely up to the
21 pilot.

22 The, the physical location of Blythe II
23 versus I versus the runway environment, no, I
24 don t see that as any more of an impediment to
25 what we have out there today.

1 HEARING OFFICER SHEAN: Okay. So
2 basically a lot of your aircraft are choosing to
3 shorten up their approach and land long, is that
4 the idea? They re -- instead of --

5 MR. HULL: There, there s, there s
6 different guide slopes.

7 HEARING OFFICER SHEAN: Okay.

8 MR. HULL: There s -- different aircraft
9 are all individual and, and different, just like
10 the pilots that fly them. A Cesna 421 is going to
11 go drive around the thing because he has to, but
12 that s the safest approach for him. A 150 or a
13 172 is, is going to chop it short, drop a notch
14 more flaps earlier and get it down. But it s
15 going to be an individual choice, nothing I have
16 any control over, any of us have any control over.

17 I did think of one more issue that, that
18 is a City issue, if I, I can take just one more
19 second. The local fire needs assessment, do you
20 want to do that now or later?

21 HEARING OFFICER SHEAN: Sure, that s
22 under worker s safety. Why don t you go ahead
23 with that. That will --

24 MR. HULL: Okay. I, I don t mean to --

25 HEARING OFFICER SHEAN: -- pretty much

1 wrap --

2 MR. PFANNER: It s okay.

3 MR. HULL: -- steal the time.

4 HEARING OFFICER SHEAN: No, no, no.

5 MR. PFANNER: One stop shopping.

6 MR. HULL: Something else that, that,

7 that has to be addressed in the City s purview of
8 the Project Review Committee is the fire needs
9 assessment. Again, many lessons learned on Blythe
10 I. We were fortunate enough to have a chief
11 building official. I know the applicant has a
12 different position on this. But we had a
13 gentleman who was very, very diligent in making
14 sure the City s best interest were preserved. In
15 his interview that was impressed upon him most
16 severely and he did a good job of it, and thank
17 you for paying for it.

18 But the, the, the point is every piece
19 of technology, equipment, automation that could be
20 installed was put into the plant inside the
21 property line. And I sleep very comfortably at
22 night knowing that thing had as many sets of eyes
23 looking at it, and the amount of money that went
24 into it for the automation for the, the fire needs
25 assessment and HAZMAT.

1 Outside the property line, excuse me,
2 outside the property line we had an expert do an
3 analysis of the local needs here -- or, I m sorry,
4 the local assets here between the City and the
5 County Fire Departments. And then also at the
6 point in time the survey was done and what we knew
7 of the plan at that time, he went through the
8 plans and had numerous suggestions for, again,
9 that technology to be employed inside the property
10 line. We came to an agreement with the applicant
11 on fire trucks and equipment, personnel training,
12 and they wrote a huge check to the City of Blythe
13 for all of that.

14 Much to the dismay of the applicant we
15 chose to keep the same expert as it related to the
16 fire needs assessment. He has been put on notice,
17 he has not been employed yet. We have a price for
18 him to do evaluation on an aggregate Blythe I and
19 II. If the thing goes down, both of them at one
20 time, what s it look like.

21 So, we re walking into this with both
22 eyes open. We would expect the same automation
23 employed inside the property lines that -- on
24 Blythe II that Blythe I had. We re very
25 comfortable with that. I went over in intimate

1 detail with the CBO, as did the consultant who did
2 the fire needs assessment, he was employed in plan
3 checking, as well as one other specialist in that
4 field.

5 I, I think the City s interest, the
6 communities interest, both City and County here,
7 and the fire department, the people who are going
8 to have to respond and, and be the, the -- either
9 the first cop car or fire engine on the scene,
10 know exactly what they re dealing with. They have
11 been asked to come to the table. They have been
12 asked to participate in discussion and plan review
13 and equipment selection and you name it. Part in
14 parcel they, you know, have helped design that,
15 that portion of Blythe I. We would expect the
16 same cooperation on Blythe II.

17 That concludes all my thoughts at this
18 point. I d be happy to answer any other questions
19 you may have or, or will approach.

20 HEARING OFFICER SHEAN: I do have a
21 question.

22 MR. HULL: Sure.

23 HEARING OFFICER SHEAN: In terms of City
24 action, either on this PRC or any other thing, do
25 you see if time framed for what we are generally

1 calling the city confirmation?

2 MR. HULL: Because there s, there s so
3 many different variables that, that evolve into
4 and then out of the PRC I m, I m going to say
5 sixty days. I m going to say that we re going to
6 take some issues to the City Council in two weeks
7 from next Tuesday, but not all of them. So I m,
8 I m very, very hopeful that sixty days from now we
9 will have everything put to bed. But like the
10 Blythe I cooling tower, that, that s not done.
11 And we may have to, we may have to hold somebody
12 hostage.

13 HEARING OFFICER SHEAN: You mean on the
14 aircraft safety issue?

15 MR. HULL: Yes, sir, that s correct.

16 HEARING OFFICER SHEAN: Okay.

17 MR. PFANNER: Does sixty days hold for
18 the fire needs assessment also?

19 MR. HULL: I believe it will.

20 MR. PFANNER: Okay.

21 MS. DE CARLO: If I may ask a question.
22 When you -- you said with regard to the ALUC
23 override determination you said if pressed you
24 would bring that to the City. Are you intending
25 to in fact bring it to the City Council at this

1 point?

2 MR. HULL: We will probably do that.

3 MS. DE CARLO: Okay.

4 MR. HULL: Yes. But again, it s not
5 fully answered at this point.

6 MR. PFANNER: Okay. And then just for
7 my clarification, cause we ve jumped around, I
8 wanted to clarify on the topics that we were
9 saying regarding the height variance and site plan
10 then the City would respond in approximately sixty
11 days, the policy -- determination on the Airport
12 Land Use Commission determination that the project
13 was inconsistent, we would get some kind of read
14 from the City in -- within that sixty day period
15 also.

16 For the traffic issue regarding the
17 airport, we are still working. I know the City is
18 working with our staff and with the Caltrans
19 Aeronautics regarding the airport safety issues.
20 So that one we still don t have a schedule for.

21 But regarding the Hobsonway issue, the
22 City would provide staff then with some written
23 description of the appropriate access for the, the
24 equipment within that sixty day period also then?

25 MR. HULL: The City will probably offer

1 the alternatives.

2 MR. PFANNER: Right.

3 MR. HULL: But give direction, no.

4 Direction is going to be -- you re going to go
5 south on Commercial and you re either going to hit
6 Hobsonway, Donlan or Dekema for whatever equipment
7 that you re working with that --

8 MR. PFANNER: And we re just looking for
9 direction from the City of what, what you want the
10 condition to state.

11 MR. HULL: Okay.

12 MR. PFANNER: Okay.

13 MR. HULL: Understood.

14 MR. PFANNER: And then the, the last
15 one, jumping ahead to the, the fire safety need,
16 that that would also be in approximately sixty
17 days?

18 MR. HULL: Our best effort, yes.

19 MR. GALATI: Mr. Chairman, if I could
20 have a moment. Mr. Hull, on the fire needs
21 assessment, as part of Blythe I that was a
22 condition of certification that required a fire
23 needs assessment to be done and then prior to the
24 start of construction. Would you also be amenable
25 to a condition like that for Blythe II rather than

1 do the fire needs assessment now, but have it done
2 as -- prior to start of construction as part of
3 compliance with the licensing department?

4 MR. HULL: Even more so today because
5 there s a huge asset in -- sitting above the
6 ground there in, in storage. I know that
7 contractors being what they are, they want to get
8 started and, you know, to heck with the, the rest
9 of reality in, in putting fire suppression in
10 place and those kinds of things.

11 I d be even more agreeable to, to
12 allowing the work to start, I won t say before
13 construction or at, at the time of construction
14 starts, yes. Short answer, yes.

15 MR. GALATI: So as opposed to -- staff,
16 staff made it -- staff s contention had been that
17 this fire needs assessment had to be done prior to
18 the final staff assessment coming out. And my
19 question -- our, our contention would be that
20 staff could impose a condition requiring it to be
21 done, requiring us to satisfy the fire needs
22 assessment prior to start of construction so that
23 the fire needs assessment would not hold up the
24 FSA. And I thought I heard you say that you
25 thought you could get that done in sixty days. If

1 for some reason that were to take longer would
2 that hold up our process, I m asking if you d be
3 amenable to having a condition so that staff could
4 prepare their final staff assessment and we could
5 do the fire needs assessment similar to how we did
6 it on Blythe I?

7 MR. HULL: Absolutely.

8 MR. PFANNER: And, and I would like to
9 interject that our staff member, Dr. Alvin
10 Greenberg is not on the phone right now because --

11 MR. GREENBERG: Yes, I am.

12 MR. PFANNER: Oh, you are. Well, you re
13 on early. I was going to say let s not debate
14 this right now til we get to the, til -- to this
15 topic.

16 MR. GREENBERG: Oh, okay.

17 MR. PFANNER: But if, if we re here and
18 we want to discuss this.

19 HEARING OFFICER SHEAN: Sure, we re
20 here. Why don t you just --

21 MR. PFANNER: Would you like to respond
22 to that?

23 HEARING OFFICER SHEAN: Dr. Greenberg,
24 do you want to respond to that?

25 MR. PFANNER: This is Dr. Alvin

1 Greenberg with the CEC Staff.

2 MR. GREENBERG: Well, I certainly agree
3 with the, the speaker s statements about the needs
4 for the fire needs assessment, particularly given
5 the cumulative impact nature of the fact that
6 there -- now there s two power plants there,
7 excuse me, both of which of course are, are either
8 using or proposing to use anhydrous ammonia for
9 inlet cooling.

10 I would have to respectfully disagree
11 that we need to -- that it is possible to put it
12 off and just have a simple condition of
13 certification saying that you have to have the
14 fire needs assessment prior to construction. I
15 think the project manager there, Bill Pfanner, has
16 all the reason why I think that that s not
17 appropriate at this time. We certainly don t want
18 to see protracted negotiations over what could be
19 very significant mitigation. The City has given
20 us an indication, a general indication of what
21 might be needed. But, but I would prefer not to
22 work on what might or may be needed as opposed to
23 what will be needed. And I think the Committee
24 should, should wait until we find out what will be
25 needed as opposed to leaving it open for some sort

1 of negotiation which could be protracted, lengthy
2 and perhaps not reach fruition.

3 There is, there s lots that go into
4 negotiations when you re under the gun and someone
5 may give in on an, on an aspect that may or may
6 not compromise safety.

7 MR. HULL: And, and I would not want
8 that either. Again, this is Charles Hull, the
9 City of Blythe. I think if it relates to inside
10 the property line and the operation of the plant,
11 the safety of the plant and those workers, if you
12 built Blythe II exactly the way that Blythe I was
13 done there s no issue with permitting.

14 This is a linear on the issue outside
15 the property line as it relates to fire trucks,
16 training, response time from the county station
17 down, that kind of thing, that fits within the
18 scope of our PRC. This is a local issue that we
19 hope to deal with, not outside, but in a, in a
20 parallel sense if you will to the permitting
21 process that you all are, are undertaking.

22 I agree that, that we re not going to --
23 absolutely not going to compromise anybody s
24 safety inside or outside the property line. I m
25 perfectly comfortable that every possible widget

1 that would fit inside that fence to take care of
2 worker s safety as it relates to fire needs was
3 employed, installed and paid for in Blythe I. I
4 would expect no less for Blythe II.

5 As it relates to the, the issues outside
6 the property line, again, it s a cumulative thing.
7 It s -- as long as it s evaluated to that degree,
8 one stand alone, two stand alone, then one and two
9 together, then I don t have a problem with
10 construction starting because we already have
11 assets in place on one that we can use on an
12 interim or construction phase for Blythe II.

13 MR. PFANNER: I would just interject
14 here, one of staff s concerns are the offsite
15 issues. If we don t know what the conditions are
16 when we certify is there a potential for
17 alternative methods of emergency service access to
18 the site, because right now Hobsonway and I-10, if
19 they were closed in a catastrophic release of
20 ammonia, is there any other clear paved access, or
21 would that possibly be a condition to provide a
22 second means of, of egress to the property?

23 MR. HULL: Riverside Drive is that other
24 access.

25 MR. LOOPER: Why would that be different

1 then Blythe I? Why was that not -- well, what,
2 what issues are you presenting different than we
3 had on Blythe I related to that release? That was
4 addressed and successfully, the program. We were
5 given a condition, we guessed a condition. We
6 worked very hard, not only on the Blythe I fire
7 but the offsite very successfully. Why would we
8 do anything different?

9 MR. PFANNER: Well, we have a cumulative
10 impact now, it s --

11 MR. LOOPER: You didn t address that
12 there. That s -- what you re addressing is an
13 ammonia release and you re saying that that s an
14 issue that staff has with why we should look at
15 this differently. And, and that s not any
16 different on Blythe I than it is on Blythe II.

17 HEARING OFFICER SHEAN: Okay. If I
18 understand though the --

19 MR. PFANNER: Okay.

20 HEARING OFFICER SHEAN: The City is
21 going to come out with some work product that may
22 include addressing elements of this --

23 MR. HULL: Absolutely we ll have to,
24 yeah.

25 HEARING OFFICER SHEAN: -- as part of

1 what -- part of the sixty day deal, right? Is
2 that right?

3 MR. HULL: We ll target sixty days but I
4 can t guarantee --

5 HEARING OFFICER SHEAN: Yeah, I m just
6 saying that --

7 MR. HULL: -- because I ve got, you
8 know --

9 HEARING OFFICER SHEAN: I m just using
10 that as --

11 MR. HULL: -- two consultants actually
12 that will --

13 MR. PFANNER: Right, right, right.

14 MR. HULL: -- that will produce that
15 product. Yes, we will make every effort to.

16 HEARING OFFICER SHEAN: Okay. Well, I m
17 not necessarily saying the final product, but some
18 scope --

19 MR. HULL: I m, I m sure we d have a
20 first draft.

21 HEARING OFFICER SHEAN: A scoping --

22 MR. HULL: But I wouldn t want you to,
23 to stall the permitting process here, the FSA,
24 waiting on something that --

25 HEARING OFFICER SHEAN: I, I don t think

1 we intend to.

2 MR. HULL: Okay.

3 HEARING OFFICER SHEAN: Okay.

4 MR. HULL: Thank you.

5 HEARING OFFICER SHEAN: All right. Why
6 don t we -- if you want to go back over some of
7 these things on -- let s go back to land use and
8 the height variance and the Airport Land Use
9 Commission.

10 MR. PFANNER: Okay. I, I believe that
11 we have the information that we need, that the
12 City will provide the height variance and the site
13 plan application information to us. The City, on
14 the Airport Land Use Commission, we feel that if
15 the City provides us with their direction that
16 would be appropriate, and that seems to be
17 consistent with what Mr. Hull has said.

18 Regarding the, the traffic and
19 transportation then, we are still working with the
20 City and with Caltrans Aeronautics to get that
21 study done. I know that there has been a problem
22 with the temperature last week, otherwise we would
23 be able to report right now. But that, that is
24 ongoing and we do want to make sure that we get
25 that information now so we can include it in our

1 FSA, and that is ongoing.

2 MR. HULL: Thank you.

3 MR. PFANNER: And then the, the roadway
4 issue, the City will provide us with directions
5 describing the route that is preferred for any
6 overweight equipment that could avoid the use of
7 Hobsonway, or what the City would prefer. So that
8 I think takes care of those issues.

9 And on my schedule we just jumped over
10 one topic which I will just back step for a
11 minute, just for the record, and that was the
12 topic of socio-economics, so that isn't one of
13 your topics. But I think that that does tie in
14 with the Water Conservation Offset Plan and that
15 staff had identified wanting more detail in order
16 to know exactly the types of lands that would be
17 used for the Water Conservation Offset Plan. That
18 may be a moot point. The socio-economic staff has
19 said without additional information they can
20 proceed and prepare their analysis based on the
21 parameters of information they have for the FSA.
22 So it would not delay things for the topic of
23 socio-economics.

24 MR. GALATI: And with respect to the
25 land use issues that, that were gone over there,

1 the City, City height variance, we agree that
2 that's a critical path item to the FSA. We agree
3 that the WCOP override and/or communication with
4 the City on how they intend to, to deal with that
5 as a critical path item for the FSA. And while we
6 initially did not agree that we needed to identify
7 alternative traffic routes, the fact that the
8 City's going to be helping us do that we
9 appreciate that very much so that the staff can go
10 ahead with the FSA. And again, we would employ
11 the Commission to use everything it can to resolve
12 the aircraft plume issues that, that are currently
13 taking place because we think that, once again, we
14 are farther outside the flight path. We think
15 that, that that information will be very helpful
16 to Blythe II.

17 And with respect to socio, in fact staff
18 I guess just took that off the table for --
19 prospectively. I guess they will not be held up
20 by us providing any additional information on
21 socio-economics, we appreciate that.

22 HEARING OFFICER SHEAN: Okay.

23 MR. PFANNER: The next topic that I have
24 is --

25 HEARING OFFICER SHEAN: Thanks, Mr.

1 Hull.

2 MR. PFANNER: -- transmission system
3 engineering. Would you like to go into that one
4 now?

5 HEARING OFFICER SHEAN: Let s just ask
6 this question here with respect to -- it s your
7 Item 12, before we get through traffic, the
8 transmission tower height.

9 MR. PFANNER: I think that that s a non-
10 issue.

11 MS. DE CARLO: Right. As long as we get
12 confirmation.

13 MR. PFANNER: Yeah, yeah. I think
14 that s a non-issue, that the applicants just
15 provides information that the -- any of the, the
16 towers are not in excess of two hundred feet. And
17 I think that they have agreed that that will not
18 be a problem.

19 HEARING OFFICER SHEAN: All right.

20 MR. PFANNER: If we re ready to go on --

21 HEARING OFFICER SHEAN: We are.

22 MR. PFANNER: -- to the, the next topic
23 we have our Senior Staff Member, Al McCuen here,
24 who is going to give us a brief overview. Just
25 because this is such a complicated topic we

1 thought that for, for clarity s sake it would be
2 good to give a little explanation. Did you want
3 me to pass out these maps for you?

4 MR. MCCUEN: Yes.

5 MR. PFANNER: Okay.

6 HEARING OFFICER SHEAN: All right.

7 Well, if the Senior Transmission Specialist for
8 the Commission can begin then the Senior Hearing
9 Officer will be happy to listen to what he has to
10 say.

11 (Pause)

12 HEARING OFFICER SHEAN: All right. Mr.
13 McCuen?

14 MR. MCCUEN: I m Al McCuen, Senior Lead
15 for the Transmission System Engineering
16 Discipline. I m going to go quickly through a
17 number of figures. Figures 1 through 5 and
18 describe some of the alternatives that have been
19 evaluated for the process. And I ll also indicate
20 some critical information relating to the
21 interconnection process.

22 On Figure 1, this is indicated as the,
23 the project that was filed in the AFC. Towards
24 the center of the page and slightly to the right
25 you can see Blythe I and Blythe II. Those are

1 connected to the existing Buck Boulevard
2 substation. And then there would be an eighty
3 mile 230 kV double circuit line that went down to
4 Midway. There s also, as part of that expansion,
5 twenty miles of 230 kV line that went from
6 Highline to El Centro. That s down in the bottom
7 section of the paper. The, the routes are
8 highlighted in orange to make them stand out.

9 In the proposal approvals to
10 interconnect would have had to have been secured
11 by Blythe II to connect to West Buck Boulevard and
12 approval to connect at Midway. For that
13 configuration there was a system impact study
14 submitted. It had power flow stability and short
15 circuit current studies.

16 In Figure 2, this is a depiction of the
17 230 kV alternatives that have been considered.
18 The eighty mile is shown here, duplicative, but
19 just basically we show them the same. The, the
20 lower one hundred and twenty mile termination from
21 Buck Boulevard to Midway is, is a route to get
22 around Chocolate Mountain Gunnery. There s also a
23 one hundred and eighteen mile 230 kV that would be
24 an alternative that connects to Devers.

25 HEARING OFFICER SHEAN: Can we ask the

1 people on the phone, your conversation is being
2 amplified through the, through the City Council
3 Chambers, to please refrain. Thank you.

4 MR. MCCUEN: Very well. On Figure 3, in
5 this Figure Blythe I and Blythe II are connected
6 together and they do not go to Buck Boulevard.
7 And there s a hundred and eighteen miles of 500 kV
8 line that would go to Devers. In this instance
9 the applicant would not have to secure approval of
10 Western to interconnect, although studies would
11 have to be conducted.

12 Going to Figure 4, this, this after a
13 lengthy analysis has, has been determined to be
14 the applicant s proposed project. Out of four or
15 five major interconnection alternatives analyzed
16 this is the selected one. This is the one that
17 the applicants indicated they want permitted. And
18 it s a hundred and eighteen mile 500 kV line.
19 Same routing basically as the 230 that you saw
20 previously. In this configuration interconnection
21 approval would have to be secured from Western to
22 connect to Buck Boulevard, and from SCE under the
23 CAL/ISO s tariffs and so on to connect to Devers.

24 Figure 5 is --
25

1 UNIDENTIFIED SPEAKER: Well, I wonder if
2 I should just take the time and go move my --

3 HEARING OFFICER SHEAN: I m going to
4 remind the staff please, we can overhear your
5 conversations and they re being amplified in the
6 hearing room. We ll -- we either need to turn you
7 down, you need to cease those conversations, or
8 we ll need to turn the teleconferencing capability
9 off.

10 MS. DE CARLO: I believe staff phones
11 have a mute button which are very handy to
12 prevent --

13 MR. PFANNER: Right. So --

14 HEARING OFFICER SHEAN: Your staff
15 counsels suggest trying the mute button.

16 MR. PFANNER: And we can hear rattling
17 papers and conversation. So if you could please
18 -- are you hearing us at all?

19 UNIDENTIFIED SPEAKER: You guys both off
20 the line?

21 HEARING OFFICER SHEAN: Apparently not.

22 MR. PFANNER: Apparently not. Can we
23 turn it down here?

24 MR. HULL: Excuse me. Can you hear me
25 on the phone? Hello? Can you hear me on the

1 phone?

2 UNIDENTIFIED SPEAKER: I m not sure who
3 you re talking to exactly.

4 MR. PFANNER: Everyone.

5 MR. HULL: Everyone on the phone.

6 UNIDENTIFIED SPEAKER: Okay. I m right
7 here on standby.

8 MR. PFANNER: Everyone on the phone, you
9 need to stop talking --

10 UNIDENTIFIED SPEAKER: I hear the
11 noise --

12 MR. PFANNER: -- and rattling papers.

13 UNIDENTIFIED SPEAKER: -- and
14 conversations as well. But they re not coming
15 from my end. It s some woman.

16 MR. O LAUGHLIN: It s making it very
17 hard in the audience. I mean, I, I --

18 HEARING OFFICER SHEAN: Oh, I
19 understand. That s why we re trying to stop it.

20 MR. O LAUGHLIN: I know. And it s been
21 going on for an hour and a half and they still
22 haven t gotten the message.

23 HEARING OFFICER SHEAN: I, I think the
24 message was you stop or we re going to turn it
25 off.

1 MR. PFANNER: And different people are
2 coming on at different times.

3 HEARING OFFICER SHEAN: Right.

4 MR. PFANNER: So they don't hear our
5 reprimands when someone new comes on and so --

6 HEARING OFFICER SHEAN: Okay.

7 MS. BOND: Excuse me, this is Linda
8 Bond. Perhaps you need to just ask everyone to
9 check in. I've got my on mute right now so -- or
10 did, so it's not me. But I think you may have to
11 just check in with everybody. It's distracting.

12 HEARING OFFICER SHEAN: All right.
13 Well, the --

14 MS. BOND: That's just a suggestion.

15 HEARING OFFICER SHEAN: To the extent it
16 disrupts the hearing down here it's a problem, so
17 it needs to stop or we're going to turn it off.
18 Go ahead.

19 MR. MCCUEN: Okay. Carrying on, in
20 Figure 5, first of all, this, this isn't actually
21 a proposal as far as staff knows so far, but, but
22 in talking to the CAL/ISO, although they can't
23 provide us detailed information, they can't
24 provide us confidential information, they can just
25 generally describe the alternatives that were

1 being discussed with Southern California Edison
2 and the CAL/ISO for the termination at Devers.
3 And one of the terminations they re discussing is,
4 is the applicant s proposed, it s the same as the
5 applicant s proposed.

6 Another one is, is with the Blythe I and
7 Blythe II projects connected together, but not to
8 Buck, not to Buck Boulevard, where all of the
9 power goes to Devers. In that configuration the
10 staff believes that the Energy Commission would
11 have permitting authority over the line, and that
12 would be a major concern and problem coming up in
13 the process.

14 Additionally, there s a consideration
15 for Blythe I and Blythe II to connect to the
16 existing Devers/Palo Verde line. That s the top
17 red line that s shown on the, on the chart. And
18 there is some potential for a second Devers to
19 Palo Verde line to exist. There might be a
20 connection there. Staff does not have the details
21 on this.

22 But, but one of the things that causes
23 us great concern here is that the project
24 definition continues to shift. And while we were
25 convinced that the applicant had picked a proposal

1 and were moving forward to analyze it we have seen
2 some movement to looking at other
3 interconnections.

4 In terms of interconnections, the
5 applicant filed with the CAL/ISO under their
6 tariffs and the SCE in March of 2003. Using the
7 basic system impact study time lines and approvals
8 for studies and so on a system impact study could
9 have been provided in September or October. Now
10 there are times when there s negotiations going on
11 so it might be more, but September or October
12 there was a potential that we have the system
13 impact study that we d been requesting and we
14 think is necessary.

15 In a similar manner the applicant filed
16 with Western in very late April 2003, again, based
17 on normal time lines for Western s tariff, the
18 study, the impact study, the system impact study
19 could have been delivered in August, again,
20 understanding that there can be negotiations.

21 And I have two last items, Commissioner.
22 Staff indicated in their rebuttal with regard to
23 the White Paper on our PSA for the transmission
24 issues that we were treating Blythe II
25 inconsistent with Blythe I. We don t agree.

1 In the Blythe I project there was a
2 system impact study. It had a different name but
3 the name doesn't matter, the content does. It had
4 power flow short circuit and stability. It was
5 required for all interconnection studies. And one
6 of the most important things about that is that
7 the adjacent transmission owners were willing to
8 tell us, based on that study, whether or not the
9 criteria violations and the mitigation measures to
10 fix that, and downstream facilities, whatever they
11 happen to be, they told us that they were
12 acceptable. That provided a sufficient level of
13 confidence to staff that we understood within
14 reason what the applicant's project would do. Not
15 a hundred percent but a confident level. That
16 confident level as I understand is required by
17 CEQA.

18 In summary, basically we have a very
19 large number of alternatives, eight at one time,
20 four or five at another. We've looked at those.
21 The applicant has paired down their selection to
22 one. And for that one the studies we have are not
23 sufficient. There is no stability analysis.
24 There's not short circuit analysis. And one of
25 the critical factors is the adjacent transmission

1 owners can not use that study and provide
2 comments. Likewise, the CAL/ISO and SCE can not
3 issue a preliminary approval based on a study of
4 that sort. They have to go through the normal
5 approved process.

6 If staff is directed to proceed using
7 the BART study, and we, we don't think that's the
8 way to go, but if that's the what we're told to do
9 then we will work closely with the applicant, with
10 the stakeholders, with CAL/ISO and move as far
11 forward as we can. We really believe that the
12 system impact studies are the way to go, and
13 that's what we need to, to move this project
14 forward, to understand it. We really do not
15 believe that the findings on LORS conformance can
16 be made on an evidentiary record that we
17 anticipate in the future without the necessary
18 studies.

19 Staff will also coordinate with the
20 CAL/ISO and others with regard to the
21 interconnection process that the applicant
22 started. As I understand it they have not yet
23 signed a interconnection study agreement which is
24 what is necessary to start the system impact
25 study. That concluded my comments.

1 HEARING OFFICER SHEAN: Okay. Just so I
2 can make sure, am I correct that Figure 3 is the
3 only configuration that would have the Energy
4 Commission asserting jurisdiction over the first
5 point of interconnection, that being Edison s
6 Dever s facility, is that correct?

7 MR. MCCUEN: No. In Figure 3 both
8 projects -- oh, okay, I m sorry. In Figure 3,
9 yes.

10 HEARING OFFICER SHEAN: All other
11 figures are -- have transmission licensing not
12 under the Energy Commission?

13 MR. MCCUEN: If the, if the 500 kV
14 configuration starts with Buck one and Buck two --
15 I m sorry, Blythe I and Blythe II tied together we
16 would also have jurisdiction. Essentially --

17 HEARING OFFICER SHEAN: Is that your
18 Figure 4?

19 MR. MCCUEN: No. Figure 4 ties the two
20 together. I didn t put a figure in for the 500 kV
21 that started there. If you, if you look at --

22 HEARING OFFICER SHEAN: Well, let s do
23 it the other way.

24 MR. MCCUEN: If you go back --

25 HEARING OFFICER SHEAN: Figure --

1 MR. MCCUEN: Figure 2, for instance.

2 HEARING OFFICER SHEAN: Figure 2.

3 MR. MCCUEN: Just take Figure 2. Blythe
4 I and Blythe II are connected to what I call the
5 integration switch yard, that s a word that s
6 being used for the 500. Let s say they tie those
7 two to that point, okay, and then build a 500 kV
8 where you see the 230. In that instance the
9 Commission has permitting authority.

10 HEARING OFFICER SHEAN: Okay.

11 PRESIDING MEMBER KEESE: For any of
12 those --

13 HEARING OFFICER SHEAN: For the --

14 PRESIDING MEMBER KEESE: Any three of
15 those lines?

16 MR. MCCUEN: Yes, if, if they, if they
17 wanted to use one of the lowest ones, yeah.

18 HEARING OFFICER SHEAN: So --

19 MR. MCCUEN: Those lower --

20 HEARING OFFICER SHEAN: So long as they
21 don t use Buck Boulevard. If they interconnected
22 Buck Boulevard, and let me -- this is a question,
23 in your view then that s the first point of
24 interconnection. If they interconnect basically
25 anywhere else whatever transmission it takes to

1 get there is within Commission jurisdiction, is
2 that right? Okay.

3 Now let s just ask the applicant here
4 people, is that -- are we on the same page on that
5 in terms of what we understand about --

6 MR. GALATI: Yeah. We agree and we are
7 interconnecting at Buck.

8 HEARING OFFICER SHEAN: Okay.

9 PRESIDING MEMBER KEESE: So that s the
10 one you want reviewed?

11 MR. LOOPER: Actually, it was, it was
12 staff who directed us as to how this
13 interconnection would work. We sat down with Al
14 and said what is it that, that is triggering this
15 Commission jurisdiction over these transmission
16 lines. It was, it was how we were depicting the
17 point of interconnection. So we spent quite a bit
18 of time with staff, agreed on what that
19 interconnection would be.

20 And, and I want to just -- there s
21 nothing that Al has said that I really disagree
22 with in terms of what it is, except that the
23 Blythe II plan of service for interconnection is a
24 thousand foot line across from Blythe II to Blythe
25 I to Buck Boulevard, period. That s it.

1 Everything else that has been done and shown in
2 lines and things of that nature has been really at
3 the -- in an effort to help solve from Highline to
4 Western and Edison and CAL/ISO and other regional
5 transmission solutions how this would be
6 integrated into the system. In other words, they
7 were reacting to our request for interconnecting
8 at Buck.

9 Our proposal to you is, is in the plan
10 of action, the first point of interconnect is a
11 thousand foot line, 500 kV from Blythe II to Buck
12 Boulevard and has been that for some time. It,
13 it s complicated by the fact that there s regional
14 things going on in the transmission world that
15 we ve been trying to facilitate through the BART
16 study to help staff evaluate. And, and we ve
17 asked actually Chris to help us with this and --
18 because it is, it is a puzzle. And when it s
19 appropriate I d like Chris to walk us through that
20 because I think he has the best understanding of,
21 of how we believe that fits in.

22 But our point of interconnect is Buck
23 Boulevard, it s a thousand foot line, period.

24 HEARING OFFICER SHEAN: Okay. So that,
25 I mean --

1 PRESIDING MEMBER KEESE: Okay. And --

2 HEARING OFFICER SHEAN: I m just trying
3 to march through these things in sequence

4 MR. LOOPER: Yes.

5 PRESIDING MEMBER KEESE: All right.
6 Let s jump back here. Does that mean that we have
7 jurisdiction over anything other than that
8 thousand feet?

9 MR. MCCUEN: No, no. Not unless when
10 the studies are completed there s a -- well, if
11 they don t change the termination we don t have
12 jurisdiction. Okay.

13 PRESIDING MEMBER KEESE: Correct.

14 MR. MCCUEN: Our, our concern is that --

15 PRESIDING MEMBER KEESE: Now,
16 recognizing --

17 MR. MCCUEN: As it stands right now we
18 don t have jurisdiction.

19 PRESIDING MEMBER KEESE: -- that there
20 are actions taking place, if it s not in front of
21 the PUC today, but Palo Verde/Devers is very much
22 a conceptual project, would it be better to
23 connect to that if this project were connected to
24 that?

25 MR. MCCUEN: I have no idea. It appears

1 that, that, that there be some analysis of that.

2 My, my point here is, is, is to point out the
3 uncertainty and what might happen if they do
4 something different than is permitted. We re,
5 we re looking at permitting that one and not some
6 other one.

7 PRESIDING MEMBER KEESE: Well, it, it --

8 MR. MCCUEN: And if they, they change it
9 could --

10 PRESIDING MEMBER KEESE: It sounds to me
11 then, again, like the simplest thing for the
12 applicant is just to hook up there. And then if
13 the system decides there s a better way to do it
14 that will be another step somewhere down the line.

15 MR. MCCUEN: I have no problem with
16 that. I recognize as a planner that, that we
17 can t know here now what the best is but, but we
18 need to be careful that we deal with the
19 applicant s process -- project and, and --

20 PRESIDING MEMBER KEESE: As proposed.

21 MR. MCCUEN: And we don t see signs that
22 they re really looking at something else while
23 they re asking us to terminate at Buck.

24 HEARING OFFICER SHEAN: Well, is it the
25 staff s view --

1 PRESIDING MEMBER KEESE: Well --

2 HEARING OFFICER SHEAN: -- that a
3 termination at Buck for both Blythe I and II --
4 let me ask it this way. With the interconnection
5 at, at Buck is there an issue with regard to
6 getting full generation of both units out into the
7 grid.

8 MR. MCCUEN: There isn't at Buck
9 Boulevard but there, there are downstream criteria
10 violations. There are overloads in the system if
11 you connect at Buck Boulevard. And what happens
12 is about 720 megawatts goes to SCE. That does
13 cause problems downstream and those are uncertain.
14 We wouldn't have jurisdiction, but it would be --

15 PRESIDING MEMBER KEESE: But the
16 applicant's going to have to move those out if
17 they want to operate their plant.

18 MR. MCCUEN: That's right. And they're
19 going to have to mitigate it.

20 PRESIDING MEMBER KEESE: And, and, and
21 they're at risk.

22 HEARING OFFICER SHEAN: Okay. And --

23 PRESIDING MEMBER KEESE: So, so, you
24 know, I'm not -- I, I hear what you're saying. I,
25 I believe I hear what you're saying. But I could

1 understand why the applicant would want to do
2 exactly what they had to do to get this plant
3 built, which is connect at Buck. I can also see
4 that if there is a better solution that s going to
5 appear when Palo Verde/Devers is approved after
6 it s filed that they might want to have that in
7 their hip pocket for later on. But, but we can t
8 be -- I mean that is -- transmission lines in this
9 state, especially those licensed by the PUC, are
10 highly speculative.

11 MR. MCCUEN: My -- I m not suggesting
12 that, I m not suggesting that we study it now or
13 anything of that nature. My concern is that I see
14 that they finally picked one. We re, we re not
15 through with the analysis of that and they re
16 looking at something else. And that, that, that,
17 that s a bit troublesome.

18 PRESIDING MEMBER KEESE: All right.
19 Well, I think they ve -- I heard them say it s
20 Buck, it s Buck and it s Buck, so that s what
21 we ll analyze, that s what should come out. And
22 if they decide sometime else to do something else
23 we re, we re going to have to start over and
24 you re going to have to do that, so --

25 MR. MCCUEN: And, and I have no problem

1 with that.

2 PRESIDING MEMBER KEESE: Everybody
3 understands that.

4 MR. GALATI: Yeah, we, we, we agree that
5 we re -- our proposal to you is to interconnect at
6 Buck. If we were at some point in time severed
7 that interconnection or changed that
8 interconnection to interconnect somewhere else,
9 that would require some full sort of project
10 amendment.

11 I just wanted to make clear that if we
12 interconnect at Buck and somebody does something
13 downstream of Buck that helps us such that we
14 don t have maybe limitations, that wouldn t
15 require us a project amendment because we have not
16 changed our interconnection. That s something
17 that, that somebody else could permit.

18 One of the problems is, and I m going to
19 get Chris Ellison up here because I, I guarantee
20 you that I will make it more complicated than it
21 needs to be, and -- but I m going to say one
22 thing, that the down -- one of the reasons so many
23 different alternatives are discussed and looked at
24 in our documents is because we ve tried to
25 anticipate what could happen downstream of Buck

1 for purposes of informing the Commission. And
2 there was quite a bit of stakeholder meetings
3 sitting around the table with the Energy
4 Commission staff to talk about those kinds of
5 things. And I ll let Chris describe that more in
6 detail.

7 HEARING OFFICER SHEAN: Before he does
8 that let, let s just make sure we re on the same
9 page on the next two topics, that being CEQA and
10 LORS findings.

11 Now with respect to CEQA, I guess if I
12 understand the staff s position it is, first of
13 all, that CEQA requires you to analyze the whole
14 of the project. And if a consequence of the
15 project is that there is an identifiable need to
16 do something somewhere else in somebody else s
17 jurisdiction but you can foresee it then you
18 analyze it, not -- and, and then this is the next
19 question. Do you think CEQA requires you to do it
20 to the depth of that certifying agency, or at a
21 more of a scoping of higher level or, or let me
22 say a more general level of analysis?

23 MS. DE CARLO: CEQA I believe requires
24 a, a more general analysis. As long as you
25 identify the potential impact you don t need to do

1 it as in depth as you do the actual direct project
2 impacts. But if you re aware of a potential
3 impact you do need to identify it and discuss it
4 to the extent of your ability.

5 HEARING OFFICER SHEAN: Okay. Now, with
6 respect to LORS, if there are some downstream
7 modifications that are required due to this
8 project and it s either going to be done, you
9 know, at the behest of the ISO through Edison,
10 Edison at the PUC, Edison at FERC or IID or
11 somebody, are they -- I assume -- or let me just
12 say, are we correct that they are going to have to
13 comply with whatever are those standards in the
14 transmission industry to assure that their project
15 at that point meets all the criteria that we would
16 otherwise apply had the project been within our
17 jurisdiction?

18 MR. MCCUEN: I d like to try that
19 because we do not, and we ve got a quite a bit of
20 history with this, but we don t, we don t review
21 in detail, maybe not even at all. For LORS
22 conformance for downstream facilities, those
23 facilities are under the PUC or whoever and, and
24 we re confident that they don t need us looking at
25 GO-95, or whatever it happened to be. Okay.

1 So when we've had downstream facilities
2 we don't, we don't really go through and look at
3 LORS. If we saw a problem we would say so but,
4 but I think there's a difference there.

5 HEARING OFFICER SHEAN: Okay. So then
6 my question substantively to you is based upon
7 whatever you know about potential downstream
8 impacts what information do you feel you need
9 either for that more generalized CEQA analysis or
10 this more generalized LORS analysis?

11 MR. MCCUEN: Let me, let me respond to
12 that. We have done a couple projects now where we
13 have used a general level of analysis and we've
14 defined that and we've, we've indicated the level
15 analysis and the information requirements. Okay.
16 And that's -- it's kind of like our standard, if
17 you will. Whenever we see a recondutor in this
18 downstream we would apply those standards. We did
19 that with Russell City, and we just recently did
20 it with San Joaquin. And, and I think if
21 something came up downstream, we haven't seen
22 anything yet but, but we might, if something came
23 up downstream I think that's what we would use as
24 a criteria.

25 HEARING OFFICER SHEAN: So as we sit

1 here today if they re connecting to Buck you don t
2 yet know whether there are downstream improvements
3 that are going to made that will either have a --
4 have to be addressed through CEQA or LORS, is that
5 correct?

6 MR. MCCUEN: That s right. There s
7 uncertainty about whether or not there would be
8 downstream upgrades. The analysis is not
9 sufficient to tell us whether or not that will
10 happen.

11 HEARING OFFICER SHEAN: And so is that
12 what you re asking them to do?

13 MR. MCCUEN: Yes. And, and I ll put it
14 another way. CEQA requires us to make a good
15 faith effort to identify the whole of the action
16 and to identify what the reasonably foreseeable
17 consequences is. And staff doesn t believe, in,
18 in this instance, staff doesn t believe saying,
19 well, we don t have the studies yet because we
20 haven t asked for them yet is sufficient. And
21 we d say, well, we don t have the study therefore
22 we don t see any impacts, okay? And so we re
23 pushing to get the studies that we think are
24 adequate to do that. And I m not saying that the
25 applicant hasn t tried to do studies and so on.

1 But, but when you look at the dates for some of
2 the requests to Western and to CAL/ISO one has to
3 wonder, well, why don t we have a system impact
4 study and we d have less certainty.

5 HEARING OFFICER SHEAN: Okay. Now, and
6 with respect to CEQA, are you, are you looking for
7 downstream consequences that are inside the fence
8 line of the substation, outside the fence line of
9 the substation, or both?

10 MR. MCCUEN: We, we, we look for all of
11 them, okay, we look for all of them. We don t --
12 you need to know if breakers need to be changed
13 out. You re probably going to conclude that
14 there s no significant impact, okay? But there
15 might be one instance where you have twenty
16 circuit breakers and one where you have two. You
17 might want to take a look at that. So, so we, we
18 want to know when we have circuit breaker change
19 outs and other things that are inside the fence.
20 But, but yes, our focus would be on a linear
21 facility.

22 HEARING OFFICER SHEAN: Okay. Now you
23 -- now I think we all have a fairly good
24 understanding of the applicable law, both through
25 CEQA and LORS, and you ve told us what you re

1 project is with respect to going into Buck. And I
2 guess the question then is, is do we know enough
3 to establish that there is a probable downstream
4 impact and how do we describe that, either for
5 CEQA purposes or LORS purposes?

6 MR. GALATI: Okay. I think we'll look
7 to Chris now.

8 MR. LOOPER: While Chris is coming up,
9 just a couple of quick things on the dates. The
10 initial interconnect request for Western Power
11 Administration was made in July of 2001, okay?
12 The initial system impact study was actually
13 completed by Southern California Edison in, in
14 early 2002. The system impact study was rejected
15 collectively by all of us I think as finding it
16 deficient and a variety of things didn't work and
17 it was morphed into let's get everybody together
18 and do the BART study which we agreed to fund. So
19 now we've funded the initial system impact study
20 done by Edison at Western and, and IID and that
21 CAL/ISO stakeholders then. We then funded and
22 completed the, the BART study and, and now we seem
23 to go back to system impact studies. But from a
24 timing standpoint I just wanted to let everybody
25 know. And as Al says it's just, it's not for lack

1 of studies. It s just not what they re -- they
2 don t believe their studies are accurate still.
3 And so we d like to address that head on.

4 HEARING OFFICER SHEAN: Okay. I m going
5 to just ask -- first of all, let s get Mr. Ellison
6 to introduce himself to the record and then
7 we ll -- oh, I guess he did a little bit before.
8 Can, can you, while it s still fresh in my mind,
9 inform the Committee whether or not the applicant
10 has identified what it believes to be probable
11 downstream impacts of the project such that it
12 would be a consequence, a necessary consequence of
13 this project? And if you have, can you tell us
14 what they are, or have you identified them to
15 staff, and if so, how?

16 MR. ELLISON: We, we believe we have.
17 Can you hear me? Is this microphone --

18 HEARING OFFICER SHEAN: Yes.

19 MR. ELLISON: If I could ask you, Mr.
20 Shean and, and the Committee and staff to refer to
21 Figure 4. This is the one that, that is really
22 the only one that s, that s relevant. This is the
23 one that applies to the project as the applicant
24 has defined it, which is interconnecting at Buck,
25 and then downstream of Buck relying upon the

1 Desert Southwest Transmission Project to convey
2 some of the power into the Edison system at
3 Devers.

4 Let me make a couple of, of fundamental
5 points about this graph. First of all, the Desert
6 Southwest Transmission Project is essentially the
7 orange line that you see there downstream of Buck,
8 is a separate project for the purposes of CEQA and
9 MIPA. It is not a consequence of this project.

10 It is a project that is being planned to go
11 forward with or without Blythe II. Now it, it is
12 planned in part to accommodate Blythe II, there is
13 a relationship. But this is a regional
14 transmission project proposed by a separate
15 company that is not solely for the purpose of, of
16 conveying power from Blythe II. It is the subject
17 to -- of a separate permit process, and it is the
18 subject of a separate environmental review
19 process. In fact, there is a draft environmental
20 impact statement, environmental impact report on
21 the street now.

22 PRESIDING MEMBER KEESE: And it, and it
23 is longer than a hundred and eighteen miles?

24 MR. ELLISON: I believe it is a hundred
25 and eighteen miles.

1 PRESIDING MEMBER KEESE: I mean, it
2 doesn't go just from Blythe to Devers. Isn't it
3 Palo Verde to Devers?

4 MR. ELLISON: Well, it's separate.

5 PRESIDING MEMBER KEESE: I mean, are you
6 talking about that or --

7 MR. ELLISON: I'm talking about the
8 Desert Southwest Transmission Project which is
9 separate from --

10 PRESIDING MEMBER KEESE: Which is
11 different than Palo Verde/Devers?

12 MR. ELLISON: Yes, it is.

13 PRESIDING MEMBER KEESE: Okay.

14 HEARING OFFICER SHEAN: I'll let -- just
15 to clarify this then, then is what you're talking
16 about in terms of the transmission more like what
17 appears on 5? I mean, that there is going to be
18 an additional transmission line while going into
19 Buck, nonetheless continues on into Arizona, is
20 that the idea?

21 MR. ELLISON: No.

22 HEARING OFFICER SHEAN: No.

23 MR. ELLISON: Figure 4 is, is the --

24 HEARING OFFICER SHEAN: Is --

25 MR. ELLISON: -- project as defined.

1 HEARING OFFICER SHEAN: Okay.

2 MR. ELLISON: And if you look you ll see
3 the Buck Boulevard station there. You can t --
4 you can barely even see it. If you look at Blythe
5 II there s a little dashed line there to, to Buck.
6 That s the jurisdictional transmission line,
7 that s the thousand feet, that s jurisdictional to
8 the Energy Commission as the project is proposed.
9 And the Commission s permitting jurisdiction stops
10 at Buck. Now the issue is what s the CEQA
11 jurisdiction of the Commission.

12 And my point is that in some cases the
13 Commission has asserted CEQA jurisdiction over
14 downstream impacts that are caused by the project
15 that would not happen but for the project and are
16 not being analyzed by anybody else because they
17 wouldn t happen but for the project. The
18 Commission appropriately under CEQA and looking at
19 the whole of the project has looked at those
20 impacts. That is not what we have here.

21 What we have here is the project
22 interconnecting at Buck and a wholly separate
23 project whose impacts will occur with or without
24 Blythe II undergoing a separate permit and
25 environmental review in parallel with this

1 project.

2 So with respect to the question of CEQA
3 I would leave you with two important points. One,
4 I don t think the Commission has any CEQA
5 jurisdiction downstream of Buck because that s a
6 separate project. But two, to the extent the
7 Commission or the staff needs environmental
8 information, even though I don t think they do
9 for, for these impacts downstream, they have a
10 draft environmental statement and a draft
11 environmental impact report for that separate
12 project that goes into great detail about all of
13 the impacts of that project. So there is a wealth
14 of information. In answer directly to your
15 question, Mr. Shean, do we know what, you know,
16 what the downstream environmental impacts are, we
17 have an environmental draft and environmental
18 impact report, yes, we do know what they are,
19 okay?

20 Now let me talk about the issue of LORS
21 compliance. And again, the issue here is that the
22 interesting thing about this case -- this case is
23 different, there s no question about it and I
24 think that s why we re having this, this
25 discussion. And I can understand both staff and

1 applicant have been struggling with, you know,
2 how, how do you deal with this. The reason this
3 is an interesting project is it presents the
4 policy issue of how do you license power plants
5 that are interconnecting to a changing grid, and
6 that s what s going on here. There are -- there,
7 there s a set of regional solutions being
8 considered. I mean, there s a whole variety of
9 them. Devers/PV I, Desert Southwest Transmission
10 Project, and a variety of other things that people
11 have thrown around and it s a, and it s a bit of a
12 moving target.

13 Nonetheless, you really can t stop all
14 your generation siting and wait for this moving
15 target to stop, because for one thing it probably
16 never will stop. But secondly, you don t have
17 your -- there s a chicken and egg problem here.
18 The, the transmission projects are also looking to
19 the siting process to know what the generation s
20 going to be that they need to provide transmission
21 for. So as a state we need to find a way to do
22 these processes in parallel. And that s what
23 makes this case different than the classic case
24 that the Energy Commission sees where you go to
25 the one utility that you re interconnecting to,

1 you get a system impact study under their tariff
2 and you can bring that to the staff, and that s
3 what they re use to and that s understood, okay?

4 Now for LORS compliance in this case,
5 because of the different utilities that are
6 involved and the different issues related to all
7 the regional planning that s going on, the
8 applicant I m told, I wasn t with the project at
9 that time, but went to staff and said why don t we
10 do what we did in Blythe I, which is get a system
11 impact study from Western, that s Buck Boulevard
12 where we re interconnecting, the utility we re
13 interconnecting to, let s get a system impact
14 study, then the utility -- the other utilities
15 could come on out and do that. I m told that the
16 staff felt that that was not appropriate for this
17 case, for Blythe II, and that s what led to the
18 BART study.

19 Now the BART study, if you ask the
20 question is this a quote system impact study you
21 confront a semantic issue. If by a system impact
22 study you mean is -- does this comply, could it be
23 used by the utilities to comply with their FERC
24 tariff s, their filed FERC tariffs, the answers
25 no. Okay. And they all have different FERC

1 tariffs, they have all these different
2 assumptions, they have different cues. You can't
3 do it that way, okay?

4 But if you mean is it a, a study of the
5 impacts on the system of the Blythe II project, I
6 would say the answer is yes, it emphatically is.
7 And if you read the purpose of it, and I remind
8 you that this, this study was a joint project of
9 Edison, IID, Western, the applicant, staff was
10 heavily involved in it, the ISO was heavily
11 involved in it, and it looks specifically at
12 Blythe II and a number of configurations and
13 analyses what are the system impacts of these
14 various alternatives, including the one ultimately
15 selected by, by the applicant. Is it a one
16 hundred percent analysis in the sense that, again,
17 you could take it to FERC and, and comply with the
18 tariffs? No. So how does the Commission
19 determine LORS compliance in that case.

20 I would suggest to you that in this
21 environment what the Commission should do,
22 although it's different than what it's done on
23 transmission before, is to do what it often does
24 in some other disciplines. For example, if you
25 look at biology the Commission often looks at a

1 draft biological opinion to look at the issue of
2 what s the likelihood of there being a show
3 stopper issue. And assuming that there isn t a
4 show stopper issue then puts appropriate
5 conditions of certification on the project to make
6 sure that it gets a final biological opinion and
7 complies with those laws.

8 We have exactly the same situation here.
9 I submit to you that the BART study is the
10 equivalent if you will of a draft biological
11 opinion. It is a study that looks at the system
12 impacts. All the utilities that participated in
13 it agree with its conclusion that says that this
14 project can be interconnected reliably to the
15 system with, with appropriate mitigation to the
16 existing system, and mitigation s been looked at,
17 and then you write an appropriate condition of
18 certification that says to the applicant you will
19 get your system, your final system impact study
20 and you ll comply with that, much in the same --
21 and again, we re dealing with Federal Law here,
22 these are Federal tariffs, and you will comply
23 with whatever those requirements are.

24 And I -- and lastly I would leave you
25 with one other thing. If the, if the concern is

1 that because we re interconnecting to a system
2 that again is in flux, if there s a concern about,
3 well, what happens if the system, the transmission
4 system isn t in place to accept this power at
5 Buck, the applicant is willing to enter into with
6 staff an appropriate condition of certification
7 that says you will not deliver more than X
8 megawatts from Blythe I and Blythe II combined,
9 and the X megawatts being what the existing system
10 now can accommodate, until there is a improvement
11 to the transmission system that allows a greater
12 -- this is -- I m not -- this is not the exact
13 right words, we d have to get their exact right
14 words, but it s a concept --

15 HEARING OFFICER SHEAN: But essentially
16 a cap, a cap.

17 MR. ELLISON: Yeah, a concept would be,
18 look, you will not deliver to the system anymore
19 power than they can take until these solutions are
20 in place. That s I think would allow the
21 Commission, based upon the BART study in the same
22 way that it often does in other disciplines to
23 assure LORS compliance. And again, I don t think
24 you have a CEQA issue because that s a separate
25 project.

1 HEARING OFFICER SHEAN: Okay. Now if we
2 look at this, cause I -- to some degree the, the
3 Commission has an interest in not certifying plans
4 that are going to be stranded without
5 transmission. Now, if I understand correctly, and
6 I think Mr. McCuen confirmed this, substantively
7 Blythe I and II can be constructed and operate.
8 And the more likely scenario is that there will be
9 downstream modification to the system that allows
10 it to accept all of that generation. But in the
11 event the, the changes don t correspond in time to
12 the online date of the project then a cap would
13 substitute for that, that s essentially what
14 you re --

15 MR. ELLISON: Yeah.

16 HEARING OFFICER SHEAN: Okay. What s
17 the staff s reaction to this?

18 MR. MCCUEN: I --

19 HEARING OFFICER SHEAN: Assuming you
20 could use the draft environmental --

21 MR. MCCUEN: The way, the way you stated
22 that, Mr. Shean, you stated it in terms of
23 stranded generation occurring because of a
24 downstream upgrade that might not get taken care
25 of. That s not the staff s concern. We would be

1 concerned if it did happen.

2 Our concern is that Blythe II can only
3 generate about 70 megawatts out of 520 without
4 this 500 kV line, this being considered.
5 Therefore, we would want to see the timing of that
6 match up with, with the project so you don't have
7 a project sitting there and you don't have a
8 transmittal, it just sits there. Also, if there
9 was a condition written it would be right now,
10 theoretically, we would not write one for not
11 allowing operation. We would write it that you
12 couldn't build first, and there would be a
13 reasonable, a reasonable expectation that the
14 plans for this transmission line are going to
15 match up.

16 PRESIDING MEMBER KEESE: Where -- what
17 is your -- is this PUC licensing, is that what
18 we're talking about? This line is in front of
19 the -- whose, whose -- is FERC, is --

20 MR. ELLISON: The Desert Southwest
21 Transmission Project would not be an IOU owned
22 line, so I believe that it would be permitted
23 through the, the local permit process, and Federal
24 agencies would of course be involved as well.

25 PRESIDING MEMBER KEESE: But is this

1 being done by MUNI?

2 MR. LOOPER: This is -- there is I think
3 a couple of representatives here from Desert
4 Southwest Transmission Project, and I think it, it
5 would be appropriate to maybe ask them what, what
6 they re doing.

7 PRESIDING MEMBER KEESE: Okay. Well,
8 let me -- that, that s fine. Let me ask Al, were
9 you indicating that you don t think this line will
10 be built?

11 MR. MCCUEN: I m concerned that it won t
12 be built in time, yes.

13 PRESIDING MEMBER KEESE: That, that it
14 will come in later than --

15 MR. MCCUEN: Blythe II.

16 PRESIDING MEMBER KEESE: Blythe II.

17 MR. MCCUEN: Yes.

18 PRESIDING MEMBER KEESE: Which is at the
19 earliest four or five years away. Okay. Let s
20 hear --

21 HEARING OFFICER SHEAN: Can I ask a
22 question here?

23 PRESIDING MEMBER KEESE: Sure.

24 HEARING OFFICER SHEAN: I mean, we
25 operate in the real world, you know, and you got,

1 you got bankers.

2 MR. LOOPER: I -- you re not going to --
3 you re right, right. And you re not going to
4 commercially be able to proceed with this project
5 without certainty of the line or a line going
6 forward --

7 HEARING OFFICER SHEAN: Okay. So now --

8 MR. LOOPER: -- from a practical
9 standpoint.

10 HEARING OFFICER SHEAN: Can we --

11 PRESIDING MEMBER KEESE: And the risk --

12 HEARING OFFICER SHEAN: Can we address
13 that fact in how we re going to analyze this?

14 MR. LOOPER: We re fine in, in writing
15 the condition. We re trying to help in writing
16 the condition cause we all believe this to be the
17 case. And -- we re happy to work with staff to
18 come up with an appropriate condition to, to, to
19 capture that thought.

20 PRESIDING MEMBER KEESE: Basically this
21 is a, this is a granddaddy remedial action scheme.

22 MR. LOOPER: Yeah, it really is.

23 PRESIDING MEMBER KEESE: This is, this
24 is a real RAS.

25 HEARING OFFICER SHEAN: Well, I think

1 what we re talking about is that you move forward
2 and then, and then you, you hold until this thing
3 moves to a certain point. And then as soon as
4 this has crossed a threshold and gives you some
5 certainty then you can take off, because you can t
6 take off really until you get the money from a
7 lender.

8 MR. LOOPER: Right.

9 MR. ELLISON: I, I think what, what I
10 would propose would be -- and I m thinking about
11 Al s comment about construction as opposed to
12 operation. I think a reasonable condition would
13 say to the applicant you can not start
14 construction until the transmission line is
15 permitted, not necessarily built but permitted.
16 And then you can not begin operation until it s
17 actually built and in place. I don t think you
18 necessarily want to build in a gap of the entire
19 construction. In other words, you can t start
20 construction on the power plant until the
21 construction on the transmission line is
22 completed. But I do think it s a reasonable --

23 HEARING OFFICER SHEAN: Well, this is
24 what we re trying to say.

25 MR. ELLISON: Yeah, it s --

1 HEARING OFFICER SHEAN: This, this,
2 this, this.

3 PRESIDING MEMBER KEESE: Okay. Can we
4 get a brief --

5 MR. ELLISON: It s reasonable to write a
6 condition that, that provides --

7 PRESIDING MEMBER KEESE: Let s get a
8 brief --

9 MR. ELLISON: -- appropriate assurance
10 that the transmission line is on schedule to be
11 there when it s needed.

12 HEARING OFFICER SHEAN: Okay. Maybe we
13 can get the Desert Southwest Transmission people
14 to help us a little bit about what s the progress,
15 what, what are the remaining steps that s kind
16 of -- et cetera.

17 MR. MOONEY: My name is Bob Mooney with
18 Desert Southwest. The lead CEQA agency is
19 Imperial Irrigation District. The lead MIPA
20 agency is BLM. The close of comment period on the
21 draft DIS was January 8th. So those letters are
22 being evaluated. The final will be out sometime
23 in the next ninety to a hundred and twenty days.
24 The line is expected to be permitted by mid-year.
25 And the current target for construction to

1 complete is in 2006.

2 HEARING OFFICER SHEAN: Okay. Thank
3 you. Now, can you work with that?

4 MR. PFANNER: I would just add one note,
5 and that is staff has been working with the IID
6 people. We did review the draft EIS/EIR for the
7 Desert Southwest Transmission line. We do
8 reference it qualitatively in the preliminary
9 staff assessment. And we have comments in that we
10 assume will be part of the responses in the ninety
11 to a hundred and twenty days.

12 HEARING OFFICER SHEAN: Okay. But the
13 larger question is --

14 MR. PFANNER: Okay. The larger question
15 is what?

16 HEARING OFFICER SHEAN: -- can you work
17 with that? Can you work with a stepped or
18 phased -- they go -- the applicant goes so far and
19 Desert Southwest Transmission goes so far and when
20 they re there these guys can then move ahead and
21 take off, couldn t that --

22 MR. MCCUEN: Yes. We don t know how the
23 specifics would go. But, but the concept --

24 HEARING OFFICER SHEAN: Well, you --

25 MR. MCCUEN: -- is that you d look at

1 the situation. Does it look reasonable that that
2 line is going to exist in the right time? I don't
3 know if it's the construct permit or what it
4 happens to be, we, we can work that out later.

5 PRESIDING MEMBER KEESE: Well, if, if
6 the, if the conditions were -- that were accepted
7 but not, not proposed yet, but they've already
8 accepted them, if those conditions go it's going
9 to step beyond reasonableness to, to action before
10 this can move forward. Isn't, isn't -- doesn't
11 that work?

12 MR. MCCUEN: I, I, I didn't catch it
13 all.

14 MS. DE CARLO: I think Al's concern is
15 the triggering of the -- what a milestone in the
16 DSTP process you identify as then allowing the
17 construction to begin on this plant. And so it's
18 just a concern of --

19 HEARING OFFICER SHEAN: Well, probably
20 is the certification of the EIR --

21 PRESIDING MEMBER KEESE: Well --

22 HEARING OFFICER SHEAN: -- for the state
23 agency and the similar thing for the Feds. And
24 then we have --

25 PRESIDING MEMBER KEESE: But, I, I

1 don t -- I m not sure we have to -- can t --
2 shouldn t this be good enough for an AFS? I mean,
3 shouldn t you guys be able to define --

4 MS. DE CARLO: We can discuss this at
5 the PSA workshop and try to hammer out --

6 PRESIDING MEMBER KEESE: Sure.

7 MS. DE CARLO: -- specific language --

8 MR. MCCUEN: Yeah.

9 MS. DE CARLO: -- languages if we can
10 agree.

11 MR. MCCUEN: We haven t tried to hammer
12 out the, the language yet.

13 HEARING OFFICER SHEAN: Okay.
14 Essentially --

15 MR. MCCUEN: Yeah.

16 PRESIDING MEMBER KEESE: And I don t
17 think we can --

18 MR. MCCUEN: And I don t think we could
19 here.

20 PRESIDING MEMBER KEESE: I m not sure we
21 can do it here. Well, you ve heard their offer.

22 MR. MCCUEN: Yeah, and --

23 PRESIDING MEMBER KEESE: We ve heard --

24 MR. MCCUEN: Right.

25 PRESIDING MEMBER KEESE: -- what your

1 concerns are.

2 MR. MCCUEN: I do have one response --

3 PRESIDING MEMBER KEESE: It sounds like
4 this can work. Go ahead.

5 MR. MCCUEN: -- to Chris regarding
6 having to do a CEQA analysis at a general level,
7 I ll emphasize. And you indicated that in this
8 case because Blythe II connects to Buck Boulevard
9 an existing substation, and then someone else is
10 doing the line, it s, it s IID, BLM and so on,
11 that if something was beyond Devers I think you
12 were suggesting that s not downstream. And, and I
13 wouldn t agree with that because it doesn t matter
14 if the downstream upgrade is from C to D and
15 you ve already gone from A to B to C, or if it s
16 way downstream. It doesn t matter how far
17 downstream it is because of the way the system
18 works. It, it can be a hundred and fifty miles
19 away. It, it s not really -- always just flows.
20 So, so I would disagree with that part.

21 MR. ELLISON: Well, I -- if I said that
22 I didn t mean to.

23 MR. MCCUEN: Oh.

24 PRESIDING MEMBER KEESE: Yeah, I
25 didn t --

1 HEARING OFFICER SHEAN: Okay.

2 MR. ELLISON: The point I was trying to
3 make was what s, what s different about this case
4 than, than the cases the Commission often sees is
5 the, the, the transmission on the Desert Southwest
6 Transmission Project is, is truly a separate CEQA
7 project, it s not in full --

8 PRESIDING MEMBER KEESE: And somebody s
9 looking at it from CEQA?

10 MR. ELLISON: It s not being built just
11 of Blythe II.

12 MR. MCCUEN: And, and when we have
13 talked over and over about downstream, the
14 downstream that we re talking about and that we re
15 concerned about is not this IID line. This line
16 is already analyzed, staff is looking at it.

17 The downstream I m talking about is what
18 happens when you inject 720 megawatts into Devers.
19 That s -- the downstream is beyond there.

20 MR. ELLISON: And, and my bumper sticker
21 response to that, and I know I m going to run out
22 of time, is that that s an issue for the separate
23 Desert Southwest Transmission Project, and they
24 will have to go through the various studies and
25 comply with whatever their impacts are at Devers.

1 And, and again, this project, the Desert Southwest
2 Transmission Project, faces those issues with or
3 without Blythe II. Now Blythe II is part of the
4 mix, but it s got to be anyway.

5 HEARING OFFICER SHEAN: Yeah. If
6 probably performed isn t that what is going to be
7 in their EIR/EIS?

8 MR. MCCUEN: No. And let -- okay. I, I
9 disagree, okay? It isn t that you connected
10 because you used somebody else s transmission line
11 to Devers, okay? Okay. That s not it.

12 What, what the point is is when you ramp
13 up the generation, because you used that line, it
14 could be any line, it doesn t matter if it s a 230
15 kV line, it doesn t matter whose it is and where s
16 it at, okay, it matters did you cause the
17 overload, okay? So I don t think you can just
18 defer it to other agencies to take care of because
19 you think, well, they re going to evaluate that
20 when they connect to IID, okay? IID is going to
21 be basically environmental type, so.

22 MR. LOOPER: Let me just add a couple of
23 things on, on that there, lessons learned from
24 Blythe I, especially for me on this, it s a
25 complicated area. I have always felt that staff

1 should continue to focus on the environmental
2 aspects, the corridor aspects that Al initially
3 talked about as, as a certain way you need to have
4 them, these fact finding studies, so that you have
5 identified what those environmental impacts could
6 be from that. And the things that -- and that s
7 where their focus has been, and this is this IID
8 line and this is what they ve been looking at.

9 The, the next area is this next level of
10 study that goes on almost outside of the
11 Commission in a parallel fashion, it s the final
12 system impact, the operating studies. And you
13 know, the applicant, regardless of what s in
14 the -- there s a condition in there, in the TSE,
15 that tells you you ll basically cooperate and do
16 what the -- under tariff utilities says. I mean,
17 we have ended up with agreements with IID,
18 Western, Edison, anybody else that had their
19 finger in that to pay for on a prorated basis
20 those impacts and improvements may not have been
21 caused or even created by us initially that were
22 ongoing on a prorated basis. Okay. So if there s
23 our -- if the Desert Southwest comes in and it s a
24 2,000 megawatt line and they evaluate those
25 impacts and they look at those environmental

1 corridors, we come into that system and we end up
2 with a 520 megawatt load on that, we will be
3 nickeled and dimed on everything downstream that
4 Edison and those folks believe that we have. But
5 from a Commission perspective I think you know
6 that we re going to have -- we re on the hook for
7 that. But from an environmental perspective we ve
8 already looked at those impacts. You don t need
9 these studies to do that.

10 So I don t -- from a CEQA perspective I
11 think we re on solid ground here moving forward.
12 And we believe we have done extensive studies.
13 And if you look at the PSA that Al wrote, despite
14 the fact that he claims it s confused, and I think
15 he did a great job, and it s, it s, it is an FSA,
16 it shows me he does understand what s going on in
17 the system, it s very complete, and they can turn
18 that around in the FSA very, very quickly.

19 So I think we can get together, we can
20 get through this, we can write the condition and
21 we can be on down the road.

22 PRESIDING MEMBER KEESE: Thank you.
23 Having, having struggled through the transmission
24 in Blythe I, which I thought was difficult, I
25 didn t think we could get more difficult.

1 MR. MCCUEN: Well, well, we ve got a
2 1,040 megawatts and we ve got a hundred and
3 eighteen mile line, is something that we didn t
4 deal with before.

5 PRESIDING MEMBER KEESE: Right. Okay.
6 I think we ve got --

7 HEARING OFFICER SHEAN: Let s close
8 this --

9 PRESIDING MEMBER KEESE: I think we re
10 closed here. I think we ve got enough to go
11 forward.

12 MR. MCCUEN: Are we going to go now
13 through the specific item of TSE and agree or
14 disagree, or are you going to do that later?

15 HEARING OFFICER SHEAN: No, we re going
16 to -- the Committee will, in an order that will
17 evolve from this, let you know what we want to do.
18 But I think we ve kind of communicated the idea is
19 that under CEQA our -- well, first of all, our
20 jurisdiction goes to Buck. Everything else is
21 downstream. You have an appropriate CEQA analysis
22 being performed for the line that will go in. And
23 with respect to LORS, you either have information
24 or you basically need to rely upon the agencies
25 who are going to install and oversee the operation

1 of the line, that they will be operated in a
2 manner that s consistent with the transmission
3 industry.

4 So I think that s generally the feeling
5 of the Committee is that the level of information
6 that s here is adequate, and that something
7 farther downstream that cascades out of that, to
8 the extent it s addressed in the -- from an
9 environmental perspective in the CEQA
10 documentation, that s what you need to rely upon.
11 If you think there s something else beyond that,
12 sooner or later that it gets to this cascading to
13 ad infinitum that I think the Commission, just as
14 a policy, doesn t want to get into.

15 MS. DE CARLO: I would just put forward
16 that the, the environmental analysis for the DSTP
17 is not going to analyze the, the potential
18 downstream impacts resulting from the proposed
19 project in any facilities that might result
20 therefrom. So in that regard we can not rely on
21 the environmental analysis of the DSTP.

22 HEARING OFFICER SHEAN: Okay. Well
23 then, then that will be what you say in your FSA.
24 They say something different in their testimony
25 and we join the issue at the evidentiary hearings.

1 MR. GALATI: Mr. Shean, may I have a
2 moment off the record? There s something I have
3 to address?

4 HEARING OFFICER SHEAN: Yeah.

5 (Colloquy Between Mr. Galati

6 and Hearing Officer Shean)

7 (Off the Record From 3:23 p.m. to 3:25 p.m.)

8 HEARING OFFICER SHEAN: During this
9 brief period when we were off the record we have
10 information suggested Figure 5 in the staff s
11 handout contained confidential information. I ll
12 indicate for the record that we have asked people
13 who are here who had received copies of that to
14 turn them back to the Commission staff and those
15 will be destroyed. So that, that s what we did.
16 There s no big deal about it, but we want to thank
17 everyone who has, has returned the copies of
18 Figure 5.

19 I think we re ready now then to go, to
20 go on to our water resources issue. Can we have a
21 show of hands, any members of the public who are
22 here who would like to speak? Uh-oh, it appears
23 we ve driven you away before you had a chance to
24 talk. All right. Thank you, Mr. McCuen. Water
25 resources.

1 MR. PFANNER: Okay. Now that we ve
2 handled the easy topics we ll move on to water
3 resources. And this is a topic that there were a
4 number of issues identified in the PSA for further
5 discussion. And again, our point is to resolve
6 issues that we can now so that we don t have to
7 deal with them later. And I think that there are
8 a number of the topics that we identified that
9 staff and the applicant can work out.

10 We ll take the first topic and that was
11 discharge of wastewater from the BEP II facility
12 to the proposed evaporation pond could result in
13 potentially significant impact to soil and
14 groundwater quality as a result of leaks or
15 overflow. Corrective evaporation pond
16 calculations are needed and should also be
17 submitted to the Regional Water Quality Control
18 Board.

19 Our response is the, the discharge of
20 wastewater from the Blythe II facility to the
21 proposed evaporation ponds could result in
22 potentially significant impacts to soil and
23 groundwater as a result of leaks or overflow. And
24 the applicant has produced several data responses
25 indicating that BEP II s proposed evaporation

1 ponds have varying amounts of excess storage
2 capacity to handle shutdown in the brine
3 concentrators and reverse osmosis units.

4 However, the waste discharge permit
5 application submitted to the Regional Water
6 Quality Control Board for BEP II stated that the
7 proposed evaporation ponds had a hundred and
8 fourteen days of excess storage capacity to handle
9 shutdown in the brine concentrators, whereas we
10 have one place on our data responses we heard six
11 days, another place in the date responses there
12 were two days identified. So we re looking for
13 corrected and consistent evaporation pond
14 calculations are needed, and should also be
15 submitted to the Regional Quality Control Board
16 for their review. And staff believes that this
17 issue could be completely worked out. A simple
18 telephone conversation between the applicant,
19 staff, Regional Board, with a record of
20 conversation docketed to resolve this. So there
21 is no need for any further dialogue on our part.

22 MR. GALATI: And, and we would be
23 amenable to that, as you can also see from our
24 filing these are tied together, the discharge
25 ponds and the waste discharge requirements I

1 think, which is the next point, to the next item.

2 We do agree that, that staff would need a draft
3 waste discharge requirements. This is all part of
4 what we believe to be one filing and some
5 additional discussion. So we look forward to
6 participating with staff so they can continue with
7 their FSA on that point -- those, excuse me --

8 HEARING OFFICER SHEAN: So --

9 MR. GALATI: -- those two points.

10 HEARING OFFICER SHEAN: Okay. So in the
11 column, Necessary for Applicant to Provide, we d
12 be putting a yes, is that correct?

13 MR. GALATI: Yes, to the extent that --

14 HEARING OFFICER SHEAN: On those two?

15 MR. GALATI: To the extent that we re
16 not providing all new evaporation pond
17 calculations but that in coordination with the
18 waste discharge requirement application that we
19 would be providing what it is we re doing and that
20 draft waste discharge requirements would be
21 required for staff dealing with the evaporation
22 pond.

23 HEARING OFFICER SHEAN: Right. And is
24 there a time frame associated with that?

25 MR. GALATI: Yeah. We will do that in

1 the next thirty days.

2 HEARING OFFICER SHEAN: Okay.

3 MR. PFANNER: Okay. I believe that
4 brings us to Item 26. I was requested that
5 Caithness quantify the amount of auxiliary firing
6 and reflect the associated water use in revised
7 heat and water balance. The applicant has
8 provided material that is inconsistent between
9 different items of information and it is not
10 possible to determine by staff with precision how
11 they intend to design and operate the power plant.
12 If staff guesses or assumes incorrectly and makes
13 findings and reaches conclusions and
14 recommendations on proposed conditions of
15 certifications it might require unnecessary
16 disagreement, and this would carry on through the
17 FSA.

18 So staff is recommending that we can
19 complete the FSA without additional information if
20 necessary, and we would make the worst case
21 assumptions as required if the applicant does not
22 wish to provide any additional information.

23 HEARING OFFICER SHEAN: Well, your FSA s
24 going to have proposed conditions. If they see
25 something in there they don t like they can tell

1 you why they don t like it. And if you want --

2 MR. PFANNER: And that s why we re
3 saying that if we can resolve it now then we don t
4 wrestle over it later.

5 MR. GALATI: Well --

6 MR. PFANNER: But that is how we will
7 proceed.

8 MR. GALATI: We understand that. And
9 just, just for the record what we, what we have
10 consistently said is we re willing to take a cap
11 on the annual amount of water that s used, that s
12 what staff ought to use. How the water is used
13 within the plant for each component, both this
14 auxiliary firing and inlet cooling, we think is
15 irrelevant to -- when we ve agreed to take a total
16 cap.

17 HEARING OFFICER SHEAN: Okay.

18 PRESIDING MEMBER KEESE: What, what is,
19 what is staff s history on this? Do you usually
20 do it process by process?

21 MR. PFANNER: I would have to turn to
22 our staff in the audience.

23 PRESIDING MEMBER KEESE: Or are you
24 putting over all cap?

25 MR. PFANNER: We knew we d get you up

1 here eventually. Richard Sapudar. Why don t you
2 come down here, Richard?

3 MR. SAPUDAR: Yeah. We usually do look
4 at the water balance. It s, it s part of the data
5 adequacy requirements. And where we see
6 discrepancies or where we see that, that something
7 is, is inconsistent we do try to correct that for
8 the record and for our understanding.

9 PRESIDING MEMBER KEESE: And then you, I
10 would imagine, you add those and end up with your
11 cumulative totals.

12 MR. SAPUDAR: Exactly right. And what
13 we do is we just look at the water balance and
14 make sure that it is in balance and that the cap
15 that we propose is -- or agree to is, is
16 reasonable based on the water use within the
17 plant. Sometimes we find errors. Sometimes we
18 find an inconsistency of, of say too much water
19 use in a, in an evaporative cooler, inlet cooling,
20 or something like that, and we, we try to
21 understand that so that the cap we propose for the
22 project or accept from the applicant is accurate.

23 PRESIDING MEMBER KEESE: Okay. But
24 you re, you re, you re --

25 MR. SAPUDAR: And that s our only point.

1 PRESIDING MEMBER KEESE: You re
2 intention is not to have process by process caps?

3 MR. SAPUDAR: No.

4 PRESIDING MEMBER KEESE: Just one cap in
5 the end?

6 MR. SAPUDAR: Absolutely not, no. It
7 will be a total water cap, but it s just to help
8 us understand how we get there, that s all.

9 PRESIDING MEMBER KEESE: Thank you.

10 MR. SAPUDAR: So --

11 PRESIDING MEMBER KEESE: I m through.

12 HEARING OFFICER SHEAN: Okay.

13 MR. SAPUDAR: Okay.

14 HEARING OFFICER SHEAN: I mean, if
15 you --

16 MR. GALATI: Yeah, we, we can provide
17 that information if that s what you want.

18 HEARING OFFICER SHEAN: If you can
19 straighten that out and make them happy on that.
20 But apparently you have in mind, and I m, I m sure
21 the staff understand they have in mind that total
22 cap at thirty-three hundred acre feet per year.
23 Okay. We ll put a, a no down there. And the
24 same thing on -- let s see.

25 PRESIDING MEMBER KEESE: Inlet cooling.

1 HEARING OFFICER SHEAN: On the inlet
2 cooling, that s just --

3 MR. PFANNER: I think inlet cooling is a
4 similar situation that staff can complete the FSA
5 without any additional information, but this would
6 rely on staff s interpretation of the applicant s
7 intentions which could have additional work in the
8 PSA workshop and evidentiary hearings. So there
9 is conflict regarding the types of inlet cooling
10 rendering the project design and operation plan
11 incomplete. And the heat and water balance should
12 be revised to reflect the type of inlet cooling
13 that will be used at the plant.

14 HEARING OFFICER SHEAN: Okay. Let s go
15 to the --

16 MR. PFANNER: Storm water retention
17 basin?

18 HEARING OFFICER SHEAN: Storm water
19 retention basin.

20 MR. PFANNER: Okay. Staff believes
21 construction and operation at the Blythe II could
22 result in increased storm water runoff volumes in
23 peak flow rates leaving the BEP II site, resulting
24 in potentially significant impacts.

25 As discussed in the PSA the calculations

1 used to size the storm water retention base are,
2 in our opinion, an error. Catastrophic failure of
3 a containment burn would be potentially
4 significant. Staff does not find it appropriate
5 to leave this issue unresolved during the
6 licensing and to defer it to compliance, and finds
7 that adequate mitigation is necessary prior to
8 licensing.

9 So staff has asked that the calculations
10 be corrected and the updated staging area of
11 volume relationship be submitted to staff for
12 review to insure that the basin has sufficient
13 capacity. Staff believes that this issue could be
14 worked out with a simple telephone call between
15 the applicant and staff, a record of conversation
16 for dockets, and there would be no reason for any
17 further disagreement on this. Again, we just need
18 some, some more communication here.

19 MR. GALATI: I think this one and the
20 next one are, are somewhat frustrating for the
21 applicant. And I invite -- in fact I implore you,
22 please, drive by Blythe I and take a look at the
23 retention basin and the relative size of that
24 retention basin to the site. It has been designed
25 to take, as Butch described, about a thousand

1 acres I believe of runoff, including Blythe II s
2 site which was graded in part of Blythe I.

3 The problem that -- and the reason that
4 this is so frustrating for is we went through a
5 very, very complex CVO process on Blythe I to get
6 that retention basin sized. And we feel very
7 comfortable that the storm water calculations
8 support there need be no emergency spillway, as
9 well as the storm water calculations are, are
10 appropriate and accurate.

11 And if -- you know, again, I don t think
12 we can resolve that with a telephone call because
13 I think we ve had these discussions before. We
14 implore the Commission staff to go back and talk
15 to the compliance project manager on, on Blythe I
16 and maybe the CVO, find out how that storm water
17 retention basin was designed, and you ll -- we
18 believe you ll see it s, it s very adequately
19 designed for Blythe I and Blythe II.

20 MR. LOOPER: And --

21 HEARING OFFICER SHEAN: Well -- okay.

22 MR. GALATI: Go ahead.

23 MR. LOOPER: I was going to say, you
24 know, Scott s being pretty kind cause he s afraid
25 I was going to speak, so, you know, these are the

1 type of issue that we have been spinning wheels
2 and frustrated on. And I think, Bill, maybe
3 you're throwing me a carrot here and saying let's
4 just give them a phone call and we'll back off.
5 That's what I'll say, and if that's what you're
6 offering that's great.

7 The problem is that staff has concluded
8 that Blythe I was wrong, that Blythe I should have
9 an emergency spillway, that Blythe I improperly,
10 you know, calculated what their storm water
11 retention basin was. And in fact, this is
12 probably one of the most scrutinized heavily
13 documented areas, through compliance third party
14 experts brought into this in, in response by us
15 and it's really frustrating that we have this
16 issue on us before us here, very frustrating.

17 So, you know, we -- it's been trial
18 set -- we had this -- the city engineering telling
19 us fine. We have the city manager telling us
20 we're fine. We have county engineers telling us
21 fine. We have third party, the CVO of your
22 compliance department telling us we're fine. Yet
23 somehow staff continues to come through and say
24 that they have an issue here.

25 HEARING OFFICER SHEAN: Okay. Let me

1 just --

2 MR. LOOPER: We re frustrated here.

3 MR. SAPUDAR: Yeah.

4 HEARING OFFICER SHEAN: Now,
5 understanding it, if, if you just disagree then we
6 just have to take this issue to a hearing, okay?
7 You don t need to explain it to us. We ll, we ll
8 ask the question of how is it that, that within
9 the Commission we say yes on one hand and say no
10 on the other? And that s at an evidentiary
11 hearing. It doesn t seem to me it s appropriate
12 to do it here. Is there any other information
13 we -- that, you know, you can shed on these two
14 issues, the storm water and the spillway that we
15 ought to know in terms of dealing with whether
16 more information needs to be provided?

17 MR. SAPUDAR: At this point I think that
18 would start getting into the, the technical
19 discussions of, of how these basins are sized, and
20 I don t know if that would be something we need to
21 get into now. I think what we would prefer to do
22 is to talk to the applicant s storm water people
23 and just see if we can get the questions that we
24 have about the way the, the Blythe I basin was
25 constructed answered. We re looking to understand

1 how it was done to make sure that we understand
2 what our concerns are and if, if they re even
3 valid of not. What we re looking for is a
4 discussion.

5 MR. LOOPER: Well, I don t know what s
6 prevented staff over the last three years from
7 having that discussion with the City.

8 HEARING OFFICER SHEAN: Okay.

9 MR. LOOPER: I mean the City approves
10 it s own.

11 MR. SAPUDAR: Oh.

12 HEARING OFFICER SHEAN: You can initiate
13 those discussions. I think you have an uphill
14 climb on this given our earlier participation in
15 the, in the Blythe I 1B Amendment. Okay.
16 Number -- well --

17 MR. PFANNER: 30.

18 HEARING OFFICER SHEAN: Number 30.

19 MR. PFANNER: Cooling technology. Okay.
20 In, in the PSA staff has discussed in detail a
21 potentially impact caused by physical changes in
22 the environment that the BEP II project will cause
23 as a decrease in the return flow from the state to
24 the Colorado River. This is a decrease that will
25 be accounted for as a consumptive use proportional

1 to Blythe II projects water use, and has been
2 determined to have associated significant impacts
3 requiring elimination or mitigation.

4 HEARING OFFICER SHEAN: Okay. Now,
5 let s, let s put that in simple English. They
6 want to use ground water for cooling.

7 MR. PFANNER: Correct.

8 HEARING OFFICER SHEAN: Staff s -- let
9 me say this. In Blythe I that matter was reviewed
10 and they were allowed to use groundwater, right?
11 Now, we re here today and staff contests the use
12 of groundwater, is that right, as a coolant for
13 cooling?

14 MR. PFANNER: We believe that there are
15 different situations today than with Blythe I. So
16 why don t we --

17 HEARING OFFICER SHEAN: And, and that
18 different situation is the reduction of flows out
19 of the river for California?

20 MR. PFANNER: Okay.

21 HEARING OFFICER SHEAN: Is that right?

22 MR. PFANNER: Would you like to --

23 MR. SAPUDAR: Yeah.

24 MR. PFANNER: -- summarize?

25 MR. SAPUDAR: Yeah. What we ve done is,

1 is we ve, we ve done exactly that. Is we ve gone
2 back and we looked at the, the, the river
3 situation, our understand of, of return flows and
4 diversion less return accounting as performed by
5 the USBR, and we looked to see how that s changed
6 for Blythe II. And our understanding of that
7 system is, is, is better, we understand how that
8 works. We understand the fact that the
9 groundwater and the surface water are considered
10 Colorado River water by law, and they are hydro-
11 logically connected, and one effects the other.
12 The way the, the diversion --

13 PRESIDING MEMBER KEESE: Let me --

14 MR. SAPUDAR: Oh, sure.

15 PRESIDING MEMBER KEESE: -- just
16 clarify, who s the we? Is that -- is we the
17 Energy Commission, or is we the collective group
18 of bodies that s responsible for the Colorado
19 River in the Blythe Basin?

20 MR. SAPUDAR: That would be staff. When
21 I use we I mean, I mean staff.

22 PRESIDING MEMBER KEESE: Okay. So are,
23 are they in agreement with you on this?

24 MR. SAPUDAR: Who s they?

25 PRESIDING MEMBER KEESE: The other --

1 water -- the agencies responsible for water?

2 HEARING OFFICER SHEAN: Has any other
3 agency taken the position that you re espousing?

4 MR. SAPUDAR: Yes, they have.

5 HEARING OFFICER SHEAN: Okay.

6 MR. SAPUDAR: We, we, we actually went
7 after more information from the Colorado River
8 Board. The River Board is the agency that s
9 responsible for looking out for California s
10 interests on the Colorado River water rights.
11 They, they provided information to the extent
12 that, that this groundwater use is a significant
13 issue between them and the USBR, the State of
14 California and the USBR, and it s been an ongoing
15 issue for years.

16 As with Blythe I, and as, as the
17 applicant stated in the past, the USBR has been
18 going to regulate this water use but they haven t.
19 And we have done the best we could to understand
20 how the USBR conducts their business in this
21 regard in a PSA.

22 And what we determined just on that
23 issue is that it looks like through the Supreme
24 Court decree that basically defines water as, as
25 Colorado River water, and within the accounting

1 service that the, that USGS designed that the
2 Colorado River aquifer definition for USBR, that
3 it s defined as Colorado River water. And it --
4 the Supreme Court decree is very clear on that.

5 The issue is is that while the Bureau
6 isn t regulating it now, they are accounting for
7 that water by less water being returned to the
8 Colorado River, which is counted as a consumptive
9 use for the State of California.

10 So we ve been dealing with these issues.
11 They re very complex. They re not particularly
12 clear. And what we determined in the case of the
13 USBR is that they apparently have the
14 jurisdiction. And I m not a water attorney, but
15 based on what we ve, we ve been able to understand
16 from the letters, the many letters that we ve had
17 on this issue, that they apparently need a rule or
18 regulation to regulate this water, and they
19 haven t done that. And that s the issue between
20 the Colorado River Board and the USBR, the fact
21 that California s basically deemed the authorized
22 users, those with the water delivery contracts
23 with the USBR are deemed because this water is not
24 being returned to the river as it s being consumed
25 by groundwater. So it s, it s -- partly it s an

1 accounting problem.

2 So what we ve done is we ve looked at
3 that and we ve said, well, they re not regulating
4 the water but they are, they are accounting for
5 it. And water that s -- groundwater that s pumped
6 from the river aquifer and consumed is water
7 that s not returned to the Colorado River and
8 there is a decrease in California s Colorado River
9 water supply as a result of that. That we
10 understand a whole lot better now.

11 MS. DE CARLO: In the interest of, of
12 moving this proceeding along, staff isn t really
13 requesting anything. We did suggest in the PSA
14 that the applicant amend their, their AFC to, to
15 analyze dry cooling. However, we understand that
16 that s not likely to happen. This is probably a
17 matter more, more amenable to the evidentiary
18 hearings. We merely included it in the PSA to let
19 everyone know where we were going so everyone had
20 an idea.

21 PRESIDING MEMBER KEESE: Right. Well,
22 I, I appreciate the clarification here.

23 MS. DE CARLO: Right.

24 PRESIDING MEMBER KEESE: Because, you
25 know, the, the, the basis we -- the basis I try to

1 start with is what do our sister -- where -- when
2 a sister agency is involved in something that
3 we re licensing we start there. That s not the
4 end, but that s, that s a good point to start and
5 say now, why are we, why are -- do we know more?
6 Were they wrong? Are they outdated? Were they
7 overruled? But you, you start there. So I, I, I
8 do appreciate the clarification there. This water
9 clearly is an area which we never touch it without
10 a number of sister agencies. And here it sounds
11 like we have more than usual.

12 MR. SAPUDAR: And I would like to add
13 that s exactly right. And there s other issues
14 that become involved in that, that probably we re
15 not going to resolve today. So whatever your
16 decision is on that is fine.

17 PRESIDING MEMBER KEESE: Okay. Thank
18 you.

19 HEARING OFFICER SHEAN: So we re all
20 going to --

21 MR. GALATI: Just for the record, the
22 fact that we re not going to go there for the FSA,
23 staff needs nothing from us on cooling technology
24 to prepare it s FSA, that s correct? Okay.

25 And just for the record, we disagree

1 with the characterization that you just heard from
2 Mr. Sapudar and we d more than happy to show you
3 again the, the, the appropriate law on that
4 policy.

5 PRESIDING MEMBER KEESE: We -- but we
6 heard it.

7 MR. GALATI: Thank you.

8 PRESIDING MEMBER KEESE: Yeah. And
9 rather than go through this now --

10 HEARING OFFICER SHEAN: And we, and we
11 understand that --

12 PRESIDING MEMBER KEESE: -- we ll do it
13 later when the briefs are thicker and there s more
14 time. Okay. The gas tank leak.

15 MR. PFANNER: Okay. I think that that
16 is an issue. Again, staff has not completed the
17 evaluation of this issue and simply raises it as a
18 notice that it will be evaluated to the extent
19 necessary. And staff could do this with -- in the
20 absence of any additional information coming in,
21 it could be written to include monitoring for
22 constituents of this bill. So we do not need more
23 information due to the FSA for this --

24 MR. LOOPER: Bill, Bill, just for my
25 benefit. This is something that we just don t

1 know anything about. So I -- I don't understand
2 where we have a gas tank leak that you said you've
3 identified. We've never gotten anything on that.
4 In other words, there's been no information or
5 communicated to us, therefore we have no ability
6 to respond to it. So we're not certain what
7 you're talking about.

8 MR. SAPUDAR: Well, that's one of the
9 reasons why, why we bring it up, just as a fact
10 that we've -- it's discovery, we know it's there.

11 MR. LOOPER: And you, you have
12 discovered there's a gas tank leak?

13 MR. SAPUDAR: I think we've, we've
14 looked at records and we know that there is, there
15 is a gas tank leak there. And what we're going to
16 do and why we raise this issue now is the only,
17 the only issue we have here is, is will the
18 pumping, groundwater pumping from the project
19 entrain and contaminate that are in the
20 contaminated plume if there is one and move them
21 to areas where they could impact other, other well
22 owners.

23 So it's strictly one of those things
24 where we want to raise it that we're looking at
25 it. If we do need some information you might have

1 to help us clear it up. We, we might ask you for
2 it and, and hopefully you ll provide it. But
3 basically it s just kind of an impact assessment.

4 MR. GALATI: If, if I just heard the
5 possibility of a data request coming to use
6 regarding this I would object to it now. Staff s
7 had the project in front of them for a very long
8 time. If you have information about a recent leak
9 that we know nothing about we d be more than happy
10 to help you deal with that. But you ought to
11 communicate to us what that is rather than the
12 first time see it in a PSA that it s a requirement
13 before we can go to FSA.

14 So I would like to again say that this
15 is not a critical path item for the reasons we
16 stated. Qualitatively we know where the Lemon
17 Ranch is. Qualitatively we know where the project
18 is. And qualitatively we know there s no wells in
19 between them. So any impact to anybody s wells
20 wouldn t be a problem.

21 So the only other impact that I can
22 think of would be that we would actually pump this
23 material into our production well and that somehow
24 we would cause that production well -- it would
25 somehow go into the cooling tower.

1 We ve agreed, like we did in Blythe I,
2 they had monitoring of the production well. They
3 should take this issue off the table.

4 MR. SAPUDAR: As I was --

5 PRESIDING MEMBER KEESE: Well, I won t,
6 I won t say that they have to take it off the
7 table. Historically gasoline leakage plumes are
8 restricted, as I believe, to about a hundred feet
9 from the tank in the case of gasoline. The,
10 the -- you know, when we got around to MTVE for
11 awhile that changes. But the, the gas is
12 generally isolated within about a hundred feet of
13 the tank. So I think you, you both --

14 MR. LOOPER: I know where it s at.

15 MR. SAPUDAR: If, if I may -- might make
16 one more --

17 PRESIDING MEMBER KEESE: We ll, we ll
18 hear it.

19 MR. SAPUDAR: -- one more comment? My
20 next point was we think we can handle this without
21 a data request or without additional information
22 from the applicant.

23 PRESIDING MEMBER KEESE: Okay. I
24 don t -- I think you can.

25 MR. SAPUDAR: No, and -- no, absolutely.

1 PRESIDING MEMBER KEESE: I, I don t know
2 that they can assist you.

3 MR. SAPUDAR: Well, we re basically --

4 PRESIDING MEMBER KEESE: I think you can
5 do it.

6 MR. SAPUDAR: We want, want to inform
7 them now and just basically say that we think we
8 can handle this with a condition for monitoring --

9 PRESIDING MEMBER KEESE: Okay.

10 MR. SAPUDAR: -- should it come down to
11 that, so -- and it would be exactly what, what
12 Mr., Mr. Galati said there is that it s either
13 their well or somebody else s well, if it gets
14 into the well it could cause other, other, other
15 issues so --

16 PRESIDING MEMBER KEESE: Okay.

17 HEARING OFFICER SHEAN: Well, I think we
18 also have to understand the flow of information is
19 not a game. If you have information with respect
20 to a leakage of a tank that they currently have no
21 knowledge of and wouldn t have until you publish
22 an FSA, and even though they ve sort of been put
23 on notice through your PSA, I, I think the, the
24 Committee would feel that it s appropriate for the
25 staff to share the information that you have with

1 regard to the leak with the applicants so they can
2 inform themselves, and that the process
3 ultimately, when we get to some evidentiary
4 hearing, will be bettered by information from the
5 staff. And if the applicant chooses to do so,
6 additional information from it.

7 So if you have information that s not
8 been communicated and is not confidential that you
9 can communicate to the applicant we d ask you to
10 do so.

11 MR. SAPUDAR: And I would agree with
12 that. I think we did raise it in a data request.
13 I m not sure what the data request was but --

14 HEARING OFFICER SHEAN: Well, now the
15 information flow s going to go the other way.

16 MR. SAPUDAR: But, you know, it s, it s,
17 it s -- we can handle it without a dispute in the
18 hearings --

19 HEARING OFFICER SHEAN: Okay. I want
20 the information flow to go the other way.

21 MR. SAPUDAR: We can do that.

22 HEARING OFFICER SHEAN: I mean, you re
23 essentially being directed to provide them the
24 information that you have.

25 MR. SAPUDAR: Okay.

1 HEARING OFFICER SHEAN: Okay.

2 MR. SAPUDAR: And we, we did use the PSA
3 to do that. And the PSA workshops, if we have
4 more information that we've developed since we
5 wrote the PSA, we'll certainly provide that.

6 HEARING OFFICER SHEAN: Okay. Ms. De
7 Carlo, I think you understand what I mean.

8 MS. DE CARLO: Yes, definitely.

9 HEARING OFFICER SHEAN: If, if there's
10 factual information that is -- underlies what you
11 have stated in the PSA it needs to be provided to
12 the applicant.

13 MS. DE CARLO: Yes. And we do strive
14 to, to coordinate with the applicant in all
15 matters that we identify that may -- they might
16 not be aware of. However, given time constraints
17 and work load sometimes there's a failure to
18 communicate. And we do apologize.

19 HEARING OFFICER SHEAN: Okay. I think
20 this Committee's only interested in what happens
21 from here on out.

22 MR. HULL: We appreciate it. And I,
23 I -- may I approach the podium?

24 HEARING OFFICER SHEAN: Yes.

25 MR. HULL: Charles Hull, City of Blythe

1 Airport Manager, commingled plume manager for the
2 underground storage tanks down on Hobsonway. As
3 the Manager of the airports if there is a leaking
4 underground fuel tank near a portable -- I m
5 sorry, potable production well on the airport I
6 need to know that. If it s on the Blythe II
7 property, a factor, it s far enough away. The
8 counter depression for the Blythe Airport is only
9 four to five hundred feet. If it s on the airport
10 property I would certainly like to know that
11 information. So at the same time I m asking that
12 the City of Blythe be notified as to the suspected
13 leaking tanks location?

14 MR. SAPUDAR: We certainly will.

15 MR. HULL: Thank you.

16 HEARING OFFICER SHEAN: Okay. There s
17 no reason to hide the pea on this so we ll --

18 MR. KESSLER: Just, just as back --

19 HEARING OFFICER SHEAN: We ll now
20 move --

21 MR. KESSLER: Mr. Shean, just as
22 background on this, this is --

23 MS. BOND: Excuse me, this is Linda
24 Bond, Consultant to the staff. May I speak?

25 MR. PFANNER: Okay.

1 HEARING OFFICER SHEAN: I --

2 MR. PFANNER: Let s introduce Linda
3 Bond, CEC staff, water staff. Thank you, Linda.

4 HEARING OFFICER SHEAN: Go ahead.

5 MS. BOND: I also wanted to raise the
6 question that we mentioned about the Blythe I
7 August 2002 water quality report that was listed
8 as included in, in responses from the applicant
9 but was omitted from the actual reports that we
10 received. And I believe Rich, you included that
11 in your list of, of outstanding data requests?

12 HEARING OFFICER SHEAN: You re stating
13 that they said they d send something to you and it
14 actually wasn t in the package?

15 MS. BOND: Correct.

16 HEARING OFFICER SHEAN: Okay. Let --
17 well, that kind of housekeeping detail we ll leave
18 to the project manager and the rest of the staff.

19 MS. BOND: Thank you.

20 HEARING OFFICER SHEAN: And, and to the
21 applicant.

22 MR. PFANNER: Yeah. We ll take care of
23 it.

24 MR. KESSLER: Mr. Shean, I m, I m John
25 Kessler. I just wanted to clarify, and Linda you

1 can confirm this, is that the potential of this
2 leaking tank effecting the groundwater around the
3 site is not something that staff found on its --
4 through its own independent analysis. It s
5 something that was raised as one of several
6 potential leaking sites through the environmental
7 site analysis that -- a report that the applicant
8 prepares as part of their due diligence in
9 preparation of the AFC. So it s upon our review
10 of that report that we and our make, make some
11 analysis as to whether there s a potential for
12 effect on the groundwater site, and this is
13 dialogue that s transpired to get to this point.

14 So I just want you to realize that we
15 have not independently sought some report and not
16 shared it with them. This is something that we
17 both are trying to interpret as to what its
18 potential may be.

19 HEARING OFFICER SHEAN: Okay. Has staff
20 developed information beyond whatever it was you
21 received from them initially? And if you have,
22 that s all we re talking about providing them.

23 MR. SAPUDAR: Yeah. I would say if we
24 had it s in our PSA, unless we ve gone passed
25 the --

1 HEARING OFFICER SHEAN: Well --

2 MR. SAPUDAR: -- analyzed it further.

3 So we will --

4 HEARING OFFICER SHEAN: We re asking Ms.

5 De Carlo to --

6 MS. DE CARLO: We ll make sure the

7 applicant --

8 HEARING OFFICER SHEAN: -- discuss with

9 your staff and make sure that there s --

10 MS. DE CARLO: -- has all the

11 information we have on this issue, definitely.

12 HEARING OFFICER SHEAN: All right.

13 Okay. Do we need, do we need to -- what are we

14 going to do on 32 here?

15 MR. PFANNER: And that is --

16 PRESIDING MEMBER KEESE: Let me, let me

17 just say that in all the cases that I ve presided

18 in we recognize that projects have impacts on the

19 community. And we certainly hope that other than

20 every impact that we fully mitigate that

21 applicants will deal with the community as a

22 community and, and assist and do things

23 voluntarily. So I m not opposed to them doing

24 WCOP.

25 I m very sensitive about a historical

1 case I had, that I will change the numbers on
2 where we found on a specific item that was argued
3 was an impact that there was absolutely no impact,
4 that the applicant agreed to spend three million
5 dollars (\$3,000,000). And everybody jumped in and
6 said it s not three, it s thirty million dollars
7 (\$30,000,000). Well, it was zero until the
8 applicant volunteered three.

9 So I m sensitive about applicants
10 volunteering to do something and people, if this
11 is what s happening here saying, well, you can do
12 that but then you have to do twice as much and
13 then three times as much. So that if the
14 applicant is volunteering something you say, oh,
15 you do that, then do this, do this, and do -- and
16 that was my impression from the reading of this,
17 so --

18 MS. DE CARLO: And I assure you that s
19 not the case. We re just trying to find out -- to
20 define what it is they are doing.

21 PRESIDING MEMBER KEESE: Okay. Well,
22 I m, I m just expressing my opinion. I, I, I like
23 voluntary activity, but if there s going to be so
24 many strings to it that they can t do it --

25 MS. DE CARLO: Right, right. No, it was

1 just -- it s already typed. I mean, with CEQA
2 we re, we re required to analyze the project, and
3 so this is just our attempt --

4 PRESIDING MEMBER KEESE: Do you think --
5 do we want to, do we want to take this up anymore
6 today or are we --

7 MS. DE CARLO: We would like -- the
8 staff would like confirmation as to whether the
9 applicant is serious about withdrawing the WCOP --

10 PRESIDING MEMBER KEESE: Well, I, I
11 don t --

12 MS. DE CARLO: -- or not.

13 PRESIDING MEMBER KEESE: I don t want to
14 put that suggestion out there.

15 MS. DE CARLO: Okay.

16 PRESIDING MEMBER KEESE: I m just saying
17 that it -- looked to me like there s some pressure
18 here saying, well, these are all the strings that
19 are going to be attached if you want to do that
20 voluntarily. And, and it looks to me like there s
21 pressure over there. So I d like to not raise the
22 issue. Let s --

23 MS. DE CARLO: And my position just is
24 those strings that you see attached are just
25 requirements that CEQA imposes on us to analyze a

1 proposed project.

2 PRESIDING MEMBER KEESE: Take a look at
3 that. Let s, let s take a look at it.

4 HEARING OFFICER SHEAN: So that would --
5 32 and 35 end up being part of the same package.

6 MR. PFANNER: Right.

7 MS. DE CARLO: Yeah.

8 MR. PFANNER: And that was regarding the
9 environmental justice issue. And staff will deal
10 with the information they have and reach their
11 conclusions on the Water Conservation Offset Plan.

12 HEARING OFFICER SHEAN: Okay. Well,
13 that kind of looks like we got to the bottom of
14 the page.

15 MR. PFANNER: I think so.

16 HEARING OFFICER SHEAN: All right. Is
17 there anything with respect to what we ve gone
18 through here that --

19 MS. DE CARLO: I would just like to
20 request clarification on two matters for TSE. In
21 the applicant s response to our PSA section they
22 identified that they have already provided us with
23 the request to interconnect with Western and the
24 request to terminate with SCE. And I would
25 just -- I haven t seen a docketed copy. There s

1 no record of those items in the docket log. And I
2 would just like to see if we could potentially get
3 another copy of that, if the applicant feels that
4 they did -- have provided that to us in the past
5 or --

6 MR. GALATI: Yeah. We, we certainly
7 can, and I will make sure --

8 MS. DE CARLO: Okay.

9 MR. GALATI: -- that I deliver one to
10 your hand.

11 MS. DE CARLO: That would be great,
12 thank you.

13 HEARING OFFICER SHEAN: Okay. Anything
14 else on Appendix A that we need to review?

15 MR. GREENBERG: What was the final
16 decision 34?

17 MR. PFANNER: Is that Alvin Greenberg?

18 MR. GREENBERG: Yeah, I m still hanging
19 in there. Did, did we put it to bed while I was
20 out?

21 HEARING OFFICER SHEAN: Possibly.

22 MR. PFANNER: The --

23 HEARING OFFICER SHEAN: The City had
24 indicated that they were working on this stuff and
25 that they would give within -- and our City guys

1 left --

2 MR. PFANNER: Sixty days.

3 MR. HULL: Sixty days.

4 MR. PFANNER: Sixty days.

5 MS. DE CARLO: Sixty days.

6 HEARING OFFICER SHEAN: Sixty days,
7 essentially a more generalized or scoping
8 requirement for the fire needs assessment, and
9 that -- at least that s what that City had
10 indicated.

11 MR. PFANNER: And so we wait to see what
12 the City provides us.

13 HEARING OFFICER SHEAN: So we -- you ll
14 await whatever the City provides.

15 MR. GREENBERG: Well, that sounds like a
16 good compromise, if it s certainly more detailed
17 than the -- we may be -- we may need or we might
18 need that they ve given us before, and yet it may
19 not be a full fire needs assessment, that may be
20 enough for me to complete my work.

21 HEARING OFFICER SHEAN: Okay.

22 MR. PFANNER: Very good.

23 HEARING OFFICER SHEAN: That s what it
24 will be.

25 MR. GREENBERG: Thank you.

1 HEARING OFFICER SHEAN: Thank you. All
2 right. Then I, I think we ve completed our
3 essential work. And now, if there are members of
4 the public or anybody who would like to provide a
5 comment, please, please come up and do so. If you
6 like you can just come up and I ll make sure I ve
7 called your name. Let s see, is it Ms. Garnica?

8 MS. GARNICA: Yes. My name is Carmela
9 Garnica and I m an intervener.

10 HEARING OFFICER SHEAN: Yes.

11 MS. GARNICA: My question is in regards
12 to the well impact study. And I wanted to know
13 if -- I never -- I was supposed to get a hold of
14 that study but you never gave it to me so -- but I
15 wanted to know if the well impact study from plant
16 one, those numbers, are they going to be added to
17 the well impact study on two, so -- meaning are
18 those both numbers added, is that included in the
19 analysis of the draw down of the wells?

20 MS. DE CARLO: I can t speak to the
21 specific calculations, but I do know we will be
22 analyzing the impacts of combined Blythe I water
23 use with Blythe II.

24 MS. GARNICA: Okay. And have you seen
25 the impact studies of the well down of the first

1 one?

2 MS. DE CARLO: I defer to Richard
3 Sapudar on that one.

4 MS. GARNICA: Oh.

5 MS. DE CARLO: He s --

6 MR. SAPUDAR: Yeah. We have Linda Bond
7 who actually does the analysis for us, and she s
8 on the, on the phone, and I hope she s still
9 there. Linda, are you there?

10 HEARING OFFICER SHEAN: Ms. Bond, are
11 you still on the phone?

12 MS. BOND: I m here. I had my phone on
13 mute.

14 MR. SAPUDAR: Yeah, and we --

15 MS. BOND: It takes me a minute.

16 MR. SAPUDAR: We have worked very
17 closely with Blythe I to do the, the well impact
18 studies and we, we did finish those. And how
19 we re going to proceed on Blythe II, Linda Bond
20 can, can fill you in.

21 HEARING OFFICER SHEAN: Ms. Bond, I
22 think what we -- just if you were on the phone,
23 describe, we ve got one of our interveners here
24 who has posed a question with regard to the
25 cumulative impact study of well draw down and --

1 between, essentially between Blythe I and II. Can
2 you describe for us what s -- what the staff will
3 be doing?

4 MS. BOND: Yes. We ll be doing a well
5 interference study essentially evaluating what the
6 average and maximum draw down will be that would
7 be caused by these two power plants operating
8 together. And the operable parameters will be
9 based on the results of aquifer testing that has
10 been performed in -- on the Blythe wells one --
11 Blythe I wells.

12 MS. GARNICA: And have you received
13 those tests from the studies they ve already done?

14 MS. BOND: Yes. Yes. Blythe I has
15 submitted their aquifer tests and results.

16 HEARING OFFICER SHEAN: Ma am, do you
17 reside in that area across the --

18 MS. GARNICA: I reside, I reside in
19 here, yes.

20 HEARING OFFICER SHEAN: Across the
21 highway from the airport, is that -- do I have
22 that --

23 UNIDENTIFIED SPEAKER: Mesa Verde.

24 HEARING OFFICER SHEAN: Mesa Verde,
25 okay. Are, are you in an area that has well water

1 that may potentially be affected by this?

2 MS. GARNICA: No, I m not.

3 HEARING OFFICER SHEAN: Okay.

4 MS. GARNICA: I, I was an intervener on
5 plant one because the pipeline -- it all started
6 off with the pipeline.

7 HEARING OFFICER SHEAN: Okay. All
8 right. Let me ask Ms. Bond or -- is there a
9 concern on the Mesa Verde --

10 MS. DE CARLO: That --

11 HEARING OFFICER SHEAN: -- people about
12 impacting --

13 MS. GARNICA: That s the impact of the
14 well --

15 HEARING OFFICER SHEAN: -- any wells?

16 MS. GARNICA: -- that I was referring
17 to, the community well.

18 HEARING OFFICER SHEAN: Okay.

19 MS. BOND: Well, Mesa Verde s community
20 wells are located in the general vicinity of the
21 plant and we have included an evaluation of what
22 the project s draw down would be on those wells.
23 The Blythe I aquifer test reports are filed with
24 the California Energy Commission, although I would
25 have to ask Rich as to how, you know, how you

1 could get copies of those.

2 HEARING OFFICER SHEAN: Okay. So the
3 cumulative impact will include potential impacts
4 to the Mesa Verde community well?

5 MS. BOND: Right. And we also did do a
6 preliminary assessment of what the draw downs for
7 the two projects operating together, that was
8 included in the, in the preliminary staff
9 assessment.

10 MR. SAPUDAR: If you would like copies
11 of those, the original reports from, from Blythe
12 we could provide those for you.

13 MS. GARNICA: Yes.

14 MR. SAPUDAR: Okay.

15 MS. GARNICA: I definitely would.

16 MR. SAPUDAR: Thank you.

17 HEARING OFFICER SHEAN: Here you go.
18 We ll give you -- all right. We have also Mr. Les
19 Nelson from the City.

20 MR. NELSON: Thank you, Commissioner
21 Keese, staff. First let me thank you for making
22 the trip over here, conducting the hearings in the
23 community. As someone who is periodically
24 required to go to Sacramento to conduct business
25 on behalf of the City I am familiar with some of

1 the difficulties and inconveniences of making the
2 trip. Thank you.

3 Two, basically, I d like to reiterate
4 what I said when we went through this process on
5 Blythe Energy Number I, and that is that the City
6 of Blythe supports the construction of the plant
7 as long as the CEC makes sure that the plant is
8 safe and environmentally clean. We believe that
9 you were successful with Blythe Energy I. We re
10 very pleased with that plant. We have on or two
11 issues still to be resolved but, but staff is
12 aware of those. We would expect the same kind of
13 diligence with Blythe Energy II. And, and with
14 that understanding we are in support of the
15 project. Thank you.

16 PRESIDING MEMBER KEESE: Thank you.

17 HEARING OFFICER SHEAN: Thank you, Mr.
18 Nelson. All right.

19 PRESIDING MEMBER KEESE: And again, I --
20 if you -- I don t know if you were here when I --
21 we appreciate the setting you give us. It makes
22 it much easier to, to make the trip.

23 HEARING OFFICER SHEAN: Mr. Hull, do you
24 want to say anything further?

25 MR. HULL: I ll decline, sir. Thank

1 you.

2 HEARING OFFICER SHEAN: Okay. Mr.
3 Hanson.

4 MR. HANSON: Quenton Hanson from Palo
5 Verde College, a Small Business Economic
6 Development Center. I just wanted to echo the
7 City Manager s comments in that I was able to take
8 a look at the project probably from a different
9 advantage point, and that from the economic impact
10 upon our small merchants and so forth. And I
11 would like to thank the Commission for coming down
12 here for hearings here in Blythe, and also the
13 staff for all their work.

14 And just to remind you that we are a
15 small community. We re not L.A. with six million
16 votes. We have at best, you know, four thousand
17 votes here. And we know the political lack of
18 power that we often have, and so forth.
19 Especially a small community a hundred miles from
20 the nearest other community. And so a project
21 like this makes it a dramatic impact upon the
22 local community.

23 There wasn t anything associated with
24 this project that the owner s of the project did
25 not in fact consider the local community. I mean,

1 even when they were moving the large turbine it
2 was well publicized in the media, both print on
3 the radio, what streets would be closed. They did
4 it during late night when there s less traffic and
5 so forth. Consideration for the local community.

6 When it came to actually building the
7 plant realized Blythe does not have a lot of union
8 workers that are journeyman or master qualified.
9 However, the plant bent over backwards and put a
10 little pressure up on the unions and so forth as
11 far as making sure that they had as many local
12 individuals working on the site as possible. And
13 consistently I took a monthly survey of the
14 workforce out there and it consistently ran about
15 twenty to twenty-five percent were in fact local.
16 Now realize that they were at the apprentice
17 levels, they were given the opportunity to join
18 local unions and thus learn a trade and so forth.

19 And roughly about two million dollars
20 (\$2,000,000) a month flowed into the local economy
21 as far as fast food places, hotel rooms and so
22 forth. In fact, it was noted quite definitely
23 when construction was finished out there and they
24 were ramping down what the effect was on the, the
25 lack of hotel rooms being used and so forth. So

1 it was very definitely a positive impact during
2 the construction and so forth that took place.

3 I want to emphasize, it wasn't just the
4 union but also within their administrative staff
5 of the operation of the general contractors, as
6 well as the owner of the plant and so forth. They
7 hired administrative personnel from the local
8 community. In fact, to this day Florida Power and
9 Light is one of their representatives, a member of
10 our local Rotary Club. I mean, they're involved
11 with the community and they continue to be
12 involved with the community. So we appreciate
13 that.

14 Just roughly six weeks ago it was
15 announced the awarding of the community fund.
16 Roughly about ten different individuals -- not
17 individuals, such as associations, non-profit
18 organizations aided by the community fund. And
19 not only just once the plant was up, they in fact
20 honored their promise from the year they started
21 construction that twenty-five thousand dollars
22 (\$25,000) each year. The first year it went to
23 the college, and then two years since then they've
24 awarded to the full twenty-five thousand dollars
25 (\$25,000) to members, non-profit organizations of

1 the community. And so they have followed through
2 on each of the promises that I've known about.
3 And to the fullest hundred percent, no doubt about
4 it.

5 So it's been a very positive impact on
6 this community. And I definitely urge favorable
7 consideration for Blythe Energy Plant II. Thank
8 you very much.

9 PRESIDING MEMBER KEESE: Thank you.

10 HEARING OFFICER SHEAN: Thank you, Mr.
11 Hanson. All right. Is there anybody else? We're
12 going to get ready to scoot cause it's probably
13 going to take us a little while to get back to
14 Ontario. But as I look at this list I do not see
15 any information item that is more than sixty days
16 out, is that correct?

17 MR. GALATI: That's correct.

18 HEARING OFFICER SHEAN: Okay. So I
19 think we can contemplate a schedule that would
20 take that into account. We'll just use that as
21 our benchmark and then go from there. And I guess
22 thank you all, I appreciate it, and I hope to see
23 you again soon, but it may unfortunately be in the
24 middle of the summer. Thank you all.

25 PRESIDING MEMBER KEESE: Thank you,

1 everybody.

2 HEARING OFFICER SHEAN: We re adjourned.

3 (Whereupon, at 4:10 p.m., the
4 proceedings were adjourned.)

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CERTIFICATE OF REPORTER

I, MARTHA L. NELSON, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Hearing; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of January, 2004.

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